

# ***NORTH CAROLINA REGISTER***

**VOLUME 33 • ISSUE 14 • Pages 1482 – 1540**

**January 15, 2019**

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**NORTH CAROLINA REGISTER**  
Publication Schedule for January 2019 – December 2019

FILING DEADLINES			NOTICE OF TEXT		PERMANENT RULE			TEMPORARY RULES
Volume & issue number	Issue date	Last day for filing	Earliest date for public hearing	End of required comment Period	Deadline to submit to RRC for review at next meeting	RRC Meeting Date	Earliest Eff. Date of Permanent Rule	270 <sup>th</sup> day from publication in the Register
33:13	01/02/19	12/06/18	01/17/19	03/04/19	03/20/19	04/18/19	05/01/19	09/29/19
33:14	01/15/19	12/19/18	01/30/19	03/18/19	03/20/19	04/18/19	05/01/19	10/12/19
33:15	02/01/19	01/10/19	02/16/19	04/02/19	04/22/19	05/16/19	06/01/19	10/29/19
33:16	02/15/19	01/25/19	03/02/19	04/16/19	04/22/19	05/16/19	06/01/19	11/12/19
33:17	03/01/19	02/08/19	03/16/19	04/30/19	05/20/19	06/20/19	07/01/19	11/26/19
33:18	03/15/19	02/22/19	03/30/19	05/14/19	05/20/19	06/20/19	07/01/19	12/10/19
33:19	04/01/19	03/11/19	04/16/19	05/31/19	06/20/19	07/18/19	08/01/19	12/27/19
33:20	04/15/19	03/25/19	04/30/19	06/14/19	06/20/19	07/18/19	08/01/19	01/10/20
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33:22	05/15/19	04/24/19	05/30/19	07/15/19	07/22/19	08/15/19	09/01/19	02/09/20
33:23	06/03/19	05/10/19	06/18/19	08/02/19	08/20/19	09/19/19	10/01/19	02/28/20
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34:11	12/02/19	11/06/19	12/17/19	01/31/20	02/20/20	03/19/20	04/01/20	08/28/20
34:12	12/16/19	11/21/19	12/31/19	02/14/20	02/20/20	03/19/20	04/01/20	09/11/20

This document is prepared by the Office of Administrative Hearings as a public service and is not to be deemed binding or controlling.

## **EXPLANATION OF THE PUBLICATION SCHEDULE**

This Publication Schedule is prepared by the Office of Administrative Hearings as a public service and the computation of time periods are not to be deemed binding or controlling. Time is computed according to 26 NCAC 2C .0302 and the Rules of Civil Procedure, Rule 6.

### **GENERAL**

The North Carolina Register shall be published twice a month and contains the following information submitted for publication by a state agency:

- (1) temporary rules;
- (2) text of proposed rules;
- (3) text of permanent rules approved by the Rules Review Commission;
- (4) emergency rules
- (5) Executive Orders of the Governor;
- (6) final decision letters from the U.S. Attorney General concerning changes in laws affecting voting in a jurisdiction subject of Section 5 of the Voting Rights Act of 1965, as required by G.S. 120-30.9H; and
- (7) other information the Codifier of Rules determines to be helpful to the public.

**COMPUTING TIME:** In computing time in the schedule, the day of publication of the North Carolina Register is not included. The last day of the period so computed is included, unless it is a Saturday, Sunday, or State holiday, in which event the period runs until the preceding day which is not a Saturday, Sunday, or State holiday.

### **FILING DEADLINES**

**ISSUE DATE:** The Register is published on the first and fifteen of each month if the first or fifteenth of the month is not a Saturday, Sunday, or State holiday for employees mandated by the State Personnel Commission. If the first or fifteenth of any month is a Saturday, Sunday, or a holiday for State employees, the North Carolina Register issue for that day will be published on the day of that month after the first or fifteenth that is not a Saturday, Sunday, or holiday for State employees.

**LAST DAY FOR FILING:** The last day for filing for any issue is 15 days before the issue date excluding Saturdays, Sundays, and holidays for State employees.

### **NOTICE OF TEXT**

**EARLIEST DATE FOR PUBLIC HEARING:** The hearing date shall be at least 15 days after the date a notice of the hearing is published.

**END OF REQUIRED COMMENT PERIOD**  
An agency shall accept comments on the text of a proposed rule for at least 60 days after the text is published or until the date of any public hearings held on the proposed rule, whichever is longer.

**DEADLINE TO SUBMIT TO THE RULES REVIEW COMMISSION:** The Commission shall review a rule submitted to it on or before the twentieth of a month by the last day of the next month.



# State of North Carolina

**ROY COOPER**  
GOVERNOR

December 6, 2018

## EXECUTIVE ORDER NO. 82

### PROMOTING HEALTH AND WELLNESS BY CLARIFYING PROTECTIONS AFFORDED TO PREGNANT STATE EMPLOYEES

**WHEREAS**, North Carolina state government is made stronger by the talent, diligence, experience, and integrity of its workforce; and

**WHEREAS**, North Carolina state government strives to retain its existing workforce and recruit new employees that can best provide services to North Carolinians; and

**WHEREAS**, initiatives that seek to improve employee wellness and health are vital to recruitment and retention efforts; and

**WHEREAS**, research suggests that workplace adjustments for pregnant workers promote physical and mental health; reduce the risk of poor birth outcomes; and increase workplace productivity, retention, and morale; and

**WHEREAS**, the North Carolina Office of State Human Resources ("OSHR") issues and implements policies and procedures that protect pregnant state employees (collectively "OSHR Policies"); and

**WHEREAS**, the undersigned is committed to promoting policies that support pregnant workers to ensure their safety and prevent discrimination, harassment, and retaliation in state government employment.

**NOW, THEREFORE**, by the authority vested in me as Governor by the Constitution and the laws of the State of North Carolina, **IT IS ORDERED**:

#### Section 1.     Purpose

It shall be the policy of the Office of the Governor and State Agencies, as defined herein, to extend workplace protections and modifications to pregnant, State Agency employees upon request, unless doing so would impose significant burdens or costs.

#### Section 2.     Definitions

- a. "State Agency": Any North Carolina department, agency, board, commission, or committee for which the Governor has oversight responsibility.
- b. "Contractor": An individual or group of individuals, however organized, that provides goods and services pursuant to a contract with a State Agency.
- c. "Subcontractor": An individual or group of individuals, however organized, that contracts with a Contractor as defined in Section 2.b of this Executive Order.
- d. "Pregnant": Concerning pregnancy, childbirth, or a related medical condition.

- e. "Eligible State Employee": A State Agency employee who is pregnant.
- f. "Workplace Adjustments": Changes in the work environment or in the way things are customarily done that enable pregnant employees to perform their jobs' essential functions or enjoy equal benefits and privileges of employment. Workplace Adjustments may include, but are not limited to, the following temporary accommodations: (i) a change in workstation and seating equipment, and/or relocation of workplace materials and equipment to make them more accessible; (ii) more frequent and/or longer breaks; (iii) periodic rest; (iv) assistance with manual labor; (v) modified work schedules, including the option to work from home; (vi) modified work assignments; (vii) adjustment of uniforms or dress codes; (viii) provision of properly sized safety gear; (ix) temporary transfer; (x) reasonable break time and access to appropriate, non-bathroom lactation accommodations for rest and/or to express breast milk; (xi) access to food and drink and permitting meals and beverages at workstations; (xii) changes in lighting and noise levels; and (xiii) closer parking and/or access to mobile assistance devices.

Notwithstanding Section 2.g of this Executive Order, it is the undersigned's intent to ensure that Eligible State Employees are provided the widest range of pregnancy protections, including Workplace Adjustments, upon compliance with Section 5 of this Executive Order.

- g. "Undue Hardship": A significant difficulty or expense imposed upon an employer as a result of offering or providing Workplace Adjustments. When determining whether a difficulty or expense constitutes an Undue Hardship, an employer may consider the following factors: (i) the nature and cost of the Workplace Adjustments; (ii) overall financial resources; (iii) the number of employees and the number, type, and location of facilities; and (iv) the impact of Workplace Adjustments on the employer's expenses, resources, or operation(s).

### **Section 3. OSHR Responsibility**

- a. OSHR shall work with State Agencies to ensure Eligible State Employees and all relevant State Agency management and staff receive information about and understand the obligations and protections established by the OSHR Policies and this Executive Order.
- b. OSHR shall prepare and distribute updated equal employment opportunity plan guidelines ("the Guidelines") to State Agencies. The Guidelines will set forth what information State Agencies will be required to collect regarding their efforts to educate management and staff of their obligations and employee rights under the OSHR Policies and this Executive Order. The Guidelines will also require that the information collected be included in State Agencies' equal employment opportunity plans ("EEO Plans"). The Guidelines will be disseminated as soon as practicable to ensure the collection and reporting of meaningful data in the EEO Plans due March 1, 2019, and every year thereafter. OSHR shall compile this data and provide it to the Governor's Office for review.
- c. Consistent with existing state law, OSHR shall take any additional steps necessary to prevent and stop discrimination, retaliation, and harassment against Eligible State Employees, including, where necessary, amending OSHR Policies in accordance with this Executive Order and providing Eligible State Employees a means of challenging adverse Workplace Adjustment determinations.

### **Section 4. State Agencies' Responsibility**

- a. Absent an Undue Hardship, State Agencies shall provide Workplace Adjustments to Eligible State Employees upon request.
- b. Notwithstanding Section 4.a of this Executive Order, a State Agency may require documentation from an Eligible State Employee's health care provider certifying the necessity of Workplace Adjustments.
- c. State Agencies must post written notice of the rights afforded to Eligible State Employees under the OSHR Policies and this Executive Order. This notice must be physically displayed in a conspicuous area in each office maintained by a State Agency.
- d. A State Agency may not force an Eligible State Employee to accept Workplace Adjustments.

- e. State Agencies shall collect and compile information regarding their efforts to educate their management and staff of their obligations and employee rights under the OSHR Policies and this Executive Order. This information will be provided to OSHR in the EEO Plans due March 1, 2019, and every year thereafter, and shall include, at minimum, the following: (i) the number of notices in each of the State Agency's offices that educate management and staff of their obligations and employee rights under the OSHR Policies and this Executive Order; (ii) the content of those notices; and (iii) information regarding any additional education initiative(s) carried out by the State Agency, specifically the nature of the initiative (form and/or medium), the information conveyed, and the estimated number of management and staff who were able to obtain information from or otherwise had access to the initiative(s).
- f. State Agencies shall take any additional steps necessary to prevent discrimination, retaliation, and harassment against Eligible State Employees.
- g. Consistent with existing state law, State Agencies shall take any additional actions necessary to foster Contractor and Subcontractor compliance with OSHR Policies and this Executive Order, including, but not limited to, adopting measures that would identify whether and under what circumstances Contractors and Subcontractors may be barred from consideration from future State Agency contracts and subcontracts for failing to adopt policies consistent with this Executive Order.

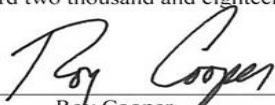
**Section 5. Eligible State Employees' Responsibility**

Eligible State Employees shall notify their supervisors if Workplace Adjustments are needed and may be required to provide certification from a health care provider.

**Section 6. Miscellaneous**

- a. Notwithstanding Section 4.g of this Executive Order, this Executive Order does not apply to counties, municipalities, political subdivisions, local government agencies, or private entities.
- b. State entities not subject to the undersigned's oversight are encouraged but not required to comply with Sections 3 and 4 of this Executive Order.
- c. Unless otherwise provided, this Executive Order supersedes and rescinds any previous Executive Order to the extent that they conflict.
- d. This Executive Order does not abrogate the workplace and contracting protections set forth in *Policies Prohibiting Discrimination, Harassment, and Retaliation in State Employment, Services, and Contracts under the Jurisdiction of the Office of the Governor*, Exec. Order No. 24, 32 N.C. Reg. 958-62 (Oct. 18, 2017).
- e. This Executive Order is effective immediately and shall remain in effect until amended or rescinded by future Executive Order of the Governor.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this 6<sup>th</sup> day of December in the year of our Lord two thousand and eighteen.

  
\_\_\_\_\_  
Roy Cooper  
Governor

ATTEST:

  
\_\_\_\_\_  
Elaine F. Marshall  
Secretary of State





# State of North Carolina

**ROY COOPER**  
GOVERNOR

December 7, 2018

EXECUTIVE ORDER NO. 83

## DECLARATION OF A STATE OF EMERGENCY

BY THE GOVERNOR OF THE STATE OF NORTH CAROLINA

**WHEREAS**, the State of North Carolina is under imminent threat of a severe winter storm; and

**WHEREAS**, it is expected that the winter storm will cause significant impacts to public and private property and may seriously disrupt essential utility services and systems; and

**WHEREAS**, it is expected that the people of North Carolina in the winter storm's path will be exposed to a substantial risk of injury or death; and

**WHEREAS**, the potential impacts from the winter storm constitute a state of emergency as defined in N.C. Gen. Stat. §§ 166A-19.3(6) and 166A-19.3(19); and

**WHEREAS**, certain measures are necessary to ensure the protection and safety of North Carolina residents and coordinate the emergency response among state and local entities and officials; and

**WHEREAS**, N.C. Gen. Stat. §§ 166A-19.10 and 166A-19.20 authorize the Governor to declare a state of emergency and exercise the powers and duties set forth therein to direct and aid in the response to, recovery from, and mitigation against emergencies.

**NOW, THEREFORE**, by the authority vested in me as Governor by the Constitution and the laws of the State of North Carolina, **IT IS ORDERED**:

### Section 1.

I hereby declare that a state of emergency, as defined in N.C. Gen. Stat. §§ 166A-19.3(6) and 166A-19.3(19), exists in the State of North Carolina.

The emergency area, as defined in N.C. Gen. Stat. §§ 166A-19.3(7) and 166A-19.20(b), is the State of North Carolina. ("the Emergency Area").

### Section 2.

I order all state and local government entities and agencies to cooperate in the implementation of the provisions of this declaration and the provisions of the North Carolina Emergency Operations Plan ("the Plan").



**Section 3.**

I delegate to Erik A. Hooks, the Secretary of the North Carolina Department of Public Safety, or his designee, all power and authority granted to and required of me by Article 1A of Chapter 166A of the North Carolina General Statutes for the purpose of implementing the Plan and deploying the State Emergency Response Team to take the appropriate actions necessary to promote and secure the safety and protection of the populace in North Carolina.

**Section 4.**

Further, Secretary Hooks, as Chief Coordinating Officer for the State of North Carolina, shall exercise the powers prescribed in N.C. Gen. Stat. § 143B-602.

**Section 5.**

I further direct Secretary Hooks or his designee to seek assistance from any and all agencies of the United States Government as may be needed to meet the emergency and seek reimbursement for costs incurred by the State in responding to this emergency.

**Section 6.**

I hereby order that this declaration be: (1) distributed to the news media and other organizations calculated to bring its contents to the attention of the general public; (2) promptly filed with the Secretary of the North Carolina Department of Public Safety, the Secretary of State, and the superior court clerks in the counties to which it applies, unless the circumstances of the state of emergency would prevent or impede this; and (3) distributed to others as necessary to ensure proper implementation of this declaration.

**Section 7.**

This declaration does not prohibit or restrict lawfully possessed firearms or ammunition or impose any limitation on the consumption, transportation, sale or purchase of alcoholic beverages as provided in N.C. Gen. Stat. § 166A-19.30(c).

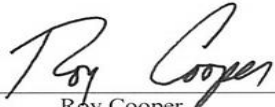
**Section 8.**

Pursuant to N.C. Gen. Stat. § 166A-19.23, this declaration triggers the prohibition against excessive pricing as provided in N.C. Gen. Stat. §§ 75-37 and 75-38 in the Emergency Area.

**Section 9.**

This declaration is effective immediately and shall remain in effect until rescinded.

**IN WITNESS WHEREOF**, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this 7th day of December in the year of our Lord two thousand and eighteen.



Roy Cooper  
Governor

**ATTEST:**



Elaine F. Marshall  
Secretary of State





# State of North Carolina

**ROY COOPER**  
GOVERNOR

December 7, 2018

**EXECUTIVE ORDER NO. 84**

**TEMPORARY SUSPENSION OF MOTOR VEHICLE REGULATIONS TO ENSURE  
RESTORATION OF UTILITY SERVICES AND TRANSPORTING ESSENTIALS**

**WHEREAS**, the potential impacts of the severe winter storm will require the transportation of vehicles bearing equipment and supplies for utility restoration and debris removal; carrying essentials such as food and medicine; transporting livestock, poultry, and feed for livestock and poultry; and transporting crops ready to be harvested through North Carolina highways; and

**WHEREAS**, I have declared that a state of emergency as defined in N.C. Gen. Stat. §§ 166A-19.3(6) and 166A-19.3(19) exists due to the potential impacts from this storm; and

**WHEREAS**, the emergency area as defined in N.C. Gen. Stat. §§ 166A-19.3(7) and 166A-19.20(b) is the entire State of North Carolina; and

**WHEREAS**, the uninterrupted supply of electricity, fuel oil, diesel oil, gasoline, kerosene, propane, liquid petroleum gas, food, water, livestock and poultry feed, and medical supplies to residential and commercial establishments is essential before, during, and after the storm and any interruption in the delivery of those commodities threatens the public welfare; and

**WHEREAS**, the prompt restoration of utility services is essential to the safety and well-being of the State's residents; and

**WHEREAS**, pursuant to N.C. Gen. Stat. § 166A-19.30(b)(3), the Governor, with the concurrence of the Council of State, may regulate and control the flow of vehicular traffic and the operation of transportation services; and

**WHEREAS**, with the concurrence of the Council of State, I have found that vehicles engaging in debris removal, bearing equipment and supplies for utility restoration, and carrying essentials are exempt from the registration requirements of N.C. Gen. Stat. §§ 20-86.1 and 20-382, the fuel tax requirements of N.C. Gen. Stat. §§ 105-449.45, 105-449.47, and 105-449.49, and the size and weight requirements of N.C. Gen. Stat. §§ 20-116, 20-118, and 20-119; and

**WHEREAS**, I have found that the State's residents may suffer losses and will likely suffer imminent further widespread damage within the meaning of N.C. Gen. Stat. §§ 166A-19.3(3) and 166A-19.21(b); and

**WHEREAS**, pursuant to N.C. Gen. Stat. § 166A-19.70(g), upon the recommendation of the North Carolina Commissioner of Agriculture and the existence of an imminent threat of severe economic loss of livestock, poultry, or crops ready to be harvested, the Governor shall direct the North Carolina Department of Public Safety ("DPS") to temporarily suspend weighing vehicles used to transport livestock, poultry or crops ready to be harvested; and

**WHEREAS**, 49 C.F.R. § 390.23 allows the Governor of a state to suspend the rules and regulations under 49 C.F.R. Parts 390-399 for up to thirty (30) days if the Governor determines that an emergency condition exists; and

**WHEREAS**, pursuant to N.C. Gen. Stat. § 166A-19.70, the Governor may declare that the health, safety, or economic well-being of persons or property requires that the maximum hours of service for drivers prescribed by N.C. Gen. Stat. § 20-381 should be waived for (1) persons transporting essential fuels,

food, water, medical supplies, and feed for livestock and poultry, (2) persons transporting livestock, poultry, and crops ready to be harvested and (3) vehicles used in the restoration of utility services.

**NOW, THEREFORE**, by the authority vested in me as Governor by the Constitution and the laws of the State of North Carolina, **IT IS ORDERED**:

**Section 1.**

For purposes of this Executive Order, the emergency area is the State of North Carolina ("the Emergency Area").

**Section 2.**

DPS, in conjunction with the North Carolina Department of Transportation ("DOT"), shall waive the maximum hours of service for drivers prescribed by DPS pursuant to N.C. Gen. Stat. § 20-381.

**Section 3.**

DPS, in conjunction with DOT, shall waive certain size and weight restrictions and penalties arising under N.C. Gen. Stat. §§ 20-116, 20-118, and 20-119, certain registration requirements and penalties arising under N.C. Gen. Stat. §§ 20-86.1 and 20-382, and certain tax registration, filing requirements, and penalties arising under N.C. Gen. Stat. §§ 105-449.45, 105-449.47, and 105-449.49 for vehicles transporting equipment and supplies for the restoration of utility services and transportation facilities, and vehicles carrying essentials and equipment for any debris removal.

Pursuant to N.C. Gen. Stat. § 20-118.1, DPS shall temporarily suspend weighing vehicles used to transport livestock, poultry, crops ready to be harvested, and feed for livestock and poultry in the Emergency Area.

**Section 4.**

Notwithstanding the waivers set forth above, size and weight restrictions and penalties have not been waived under the following conditions:

- a. When the vehicle weight exceeds the maximum gross weight criteria established by the manufacturer (GVWR) or 90,000 pounds gross weight, whichever is less.
- b. When the tandem axle weight exceeds 42,000 pounds and the single axle weight exceeds 22,000 pounds.
- c. When a vehicle and vehicle combination exceed twelve (12) feet in width and the total overall vehicle combination's length exceeds seventy-five (75) feet from bumper to bumper.
- d. Vehicles and vehicle combinations subject to exemptions or permits by authority of this Executive Order shall not be exempt from the requirement of having: (1) a yellow banner on the front and rear that is seven (7) feet long and eighteen (18) inches wide and bears the legend "Oversized Load" in ten (10) inch black letters that are 1.5 inches wide; and (2) red flags measuring eighteen (18) inches square on all sides at the widest point of the load. In addition, when operating between sunset and sunrise, a certified escort shall be required for loads exceeding eight (8) feet 6 inches in width.

**Section 5.**

Vehicles referenced under Sections 3 and 4 of this Executive Order shall be exempt from the following registration requirements:

- a. The requirement to obtain a temporary trip permit and pay the associated \$50.00 fee listed in N.C. Gen. Stat. § 105-449.49 is waived for such vehicles.
- b. The requirement of filing a quarterly fuel tax return is waived as the exemption set forth in N.C. Gen. Stat. § 105-449.45(b)(1) applies.
- c. The registration requirements under N.C. Gen. Stat. § 20-382.1 concerning intrastate for-hire authority and N.C. Gen. Stat. § 20-382 concerning interstate for-hire authority are waived; however, vehicles shall maintain the required limits of insurance.
- d. Non-participants in North Carolina's International Registration Plan and International Fuel Tax Agreement will be permitted to enter North Carolina in accordance with the exemptions identified in this Executive Order.

**Section 6.**

The size and weight exemption(s) for vehicles will be allowed on all DOT designated routes, except those routes designated as light traffic roads under N.C. Gen. Stat. § 20-118. This Executive Order shall not be in effect on bridges posted pursuant to N.C. Gen. Stat. § 136-72.

**Section 7.**

The waiver of regulations under Title 49 of the Code of Federal Regulations ("Federal Motor Carrier Safety Regulations") does not apply to the Commercial Drivers' License and Insurance Requirements. This waiver shall be in effect for thirty (30) days or the duration of the emergency, whichever is less.

**Section 8.**

The North Carolina State Highway Patrol shall enforce the conditions set forth in Sections 2 through 7 of this Executive Order in a manner that does not endanger North Carolina motorists.

**Section 9.**

Upon request by law enforcement officers, exempted vehicles must produce documentation sufficient to establish that their loads are bearing equipment and supplies for utility restoration, being used for debris removal, carrying essentials in commerce, carrying feed for livestock and poultry, or transporting livestock, poultry, or crops ready to be harvested in the State of North Carolina.

**Section 10.**

This Executive Order does not prohibit or restrict lawfully possessed firearms or ammunition or impose any limitation on the consumption, transportation, sale or purchase of alcoholic beverages as provided in N.C. Gen. Stat. § 166A-19.30(c).

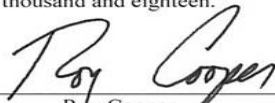
**Section 11.**

Pursuant to N.C. Gen. Stat. § 166A-19.23, this declaration triggers the prohibition against excessive pricing as provided in N.C. Gen. Stat. §§ 75-37 and 75-38 in the Emergency Area.

**Section 12.**

This Executive Order is effective immediately and shall remain in effect for thirty (30) days or the duration of the emergency, whichever is less.

**IN WITNESS WHEREOF**, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this 7<sup>th</sup> day of December in the year of our Lord two thousand and eighteen.

  
\_\_\_\_\_  
Roy Cooper  
Governor

**ATTEST:**

  
\_\_\_\_\_  
Elaine F. Marshall  
Secretary of State



**North Carolina Department of Labor  
Division of Occupational Safety and Health  
1101 Mail Service Center  
Raleigh, NC 27699-1101**

(919) 707-7806

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**NOTICE OF VERBATIM ADOPTION OF FEDERAL STANDARDS**

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In consideration of G.S. 150B-21.5(c) the Occupational Safety and Health Division of the Department of Labor hereby gives notice that:

- Rule changes have been submitted to update the *North Carolina Administrative Code* at 13 NCAC 07F .0101 to incorporate by reference the occupational safety and health related provisions of Title 29 of the *Code of Federal Regulations* Parts 1910 promulgated as of August 9, 2018, and
- The *North Carolina Administrative Code* at 13 NCAC 07A .0301 automatically adopts subsequent amendments to certain parts of the *Code of Federal Regulations*. Title 29, Part 1910—General Industry Standards does not automatically include subsequent amendments.

This update encompasses the following recent verbatim adoption:

- Occupational Safety and Health Standards, Limited Extension of Select Compliance Dates for Occupational Exposure to Beryllium in General Industry, 29 CFR § 1910 (83 FR 39351, August 9, 2018)

The final rule, published in the Federal Register on August 9, 2018 (83 FR 39351), confirms the effective date of the final rule published August 9, 2018, which extends the compliance date for certain ancillary requirements of the general industry beryllium standard to December 12, 2018. This standard protects workers from the hazards of beryllium exposure. The December 12, 2018 compliance date affects only certain ancillary provisions of 29 CFR 1910, Subpart Z – Toxic and Hazardous Substances. The ancillary provisions include, but are not limited to, methods of compliance, beryllium work areas, regulated areas, personal protective clothing and equipment, hygiene areas and practices, housekeeping, communication of hazards, and recordkeeping. Since no significant comments were received, OSHA's final rule was effective August 9, 2018.

For additional information, please contact:

Bureau of Education, Training and Technical Assistance  
Occupational Safety and Health Division  
North Carolina Department of Labor  
1101 Mail Service Center  
Raleigh, North Carolina 27699-1101

For additional information regarding North Carolina's process of adopting federal OSHA Standards verbatim, please contact:

Jill F. Cramer, Agency Rulemaking Coordinator  
North Carolina Department of Labor  
Legal Affairs Division  
1101 Mail Service Center  
Raleigh, North Carolina 27699-1101

**NORTH CAROLINA RATE BUREAU**

**PUBLIC NOTICE**

Notice is hereby given pursuant to North Carolina General Statute 58-36-120 that, on December 19, 2018, the North Carolina Rate Bureau ("Rate Bureau") filed for an increase in rates as to Homeowners insurance policies under its jurisdiction. The Rate Bureau is publishing notice of the Filing in two newspapers with statewide distribution and the North Carolina Register. Information regarding the filing is also posted on the Rate Bureau website ([www.ncrb.org/ncrb](http://www.ncrb.org/ncrb)) and the North Carolina Department of Insurance website ([www.ncdoi.com](http://www.ncdoi.com)). The Commissioner of Insurance may or may not schedule and conduct a hearing with respect to this Filing. This Filing only relates to Homeowners insurance policies under the jurisdiction of the Rate Bureau and does not affect Dwelling Fire and Extended Coverage or Mobile Homeowners insurance policies or rates not part of the Homeowner Policy Program.

**Note from the Codifier:** The notices published in this Section of the NC Register include the text of proposed rules. The agency must accept comments on the proposed rule(s) for at least 60 days from the publication date, or until the public hearing, or a later date if specified in the notice by the agency. If the agency adopts a rule that differs substantially from a prior published notice, the agency must publish the text of the proposed different rule and accept comment on the proposed different rule for 60 days. Statutory reference: G.S. 150B-21.2.

**TITLE 14B – DEPARTMENT OF PUBLIC SAFETY**

*Notice is hereby given in accordance with G.S. 150B-21.2 that the Alarm Systems Licensing Board intends to amend the rule cited as 14B NCAC 17 .0203.*

**Link to agency website pursuant to G.S. 150B-19.1(c):**  
<https://www.ncdps.gov/dps-services/permits-licenses/alarm-system-licensing-board>

**Proposed Effective Date:** May 1, 2019

**Public Hearing:**

**Date:** January 30, 2019

**Time:** 2:00 p.m.

**Location:** Alarm Systems Licensing Board, 3101 Industrial Dr., Suite 104, Raleigh, NC 27609

**Reason for Proposed Action:** *The Board is fee funded and is not supported by the General Fund of the State of North Carolina. The Board has seen a fund balance decrease of approximately \$50,000 in the last year; therefore, it is necessary to increase the licensing fee in order to cover costs. The Board is increasing the licensing application fee from three hundred seventy-five dollars (\$375.00) to five hundred dollars (\$500.00), an amount allowed pursuant to N.C.G.S. 74D-7. The Board has approximately 400 licenses; therefore, the \$125 increase to the licensing fee will result in approximately \$50,000 increased revenue.*

**Comments may be submitted to:** Phil Stephenson, Field Services Supervisor, 3101 Industrial Drive, Suite 104, Raleigh, NC 27609, phone (919) 788-5320, fax (919) 715-0370, email [Phillip.Stephenson@ncdps.gov](mailto:Phillip.Stephenson@ncdps.gov)

**Comment period ends:** March 18, 2019

**Procedure for Subjecting a Proposed Rule to Legislative Review:**

If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-431-3000.

**Fiscal impact (check all that apply).**

- ☐ State funds affected
- ☐ Environmental permitting of DOT affected
- ☐ Analysis submitted to Board of Transportation
- ☐ Local funds affected
- ☐ Substantial economic impact (≥\$1,000,000)
- ☐ Approved by OSBM
- ☒ No fiscal note required by G.S. 150B-21.4

**CHAPTER 17 - ALARM SYSTEMS LICENSING BOARD**

**SECTION .0200 – PROVISIONS FOR LICENSEES**

**14B NCAC 17 .0203 FEES FOR LICENSES**

(a) Application license fees shall be as follows:

- (1) one hundred fifty dollars (\$150.00) non-refundable initial application fee;
- (2) ~~three hundred seventy-five dollar (\$375.00)~~ five hundred dollar (\$500.00) biennial fee for a new or renewal license;
- (3) one hundred fifty dollars (\$150.00) branch office license fee;
- (4) one hundred dollars (\$100.00) late renewal fee to be paid in addition to the renewal fee if the license has not been renewed on or before the expiration date.

(b) Fees shall be paid as follows:

- (1) if the application is submitted by hand delivery, U.S. Mail, or delivery services, payment shall be by check or money order made payable to the Alarm Systems Licensing Board; or
- (2) if the application is submitted online, payment shall be by credit card, e-check or other form of electronic funds.

Authority G.S. 74D-7.

**TITLE 15A – DEPARTMENT OF ENVIRONMENTAL QUALITY**

*Notice is hereby given in accordance with G.S. 150B-21.2 that the Coastal Resources Commission intends to amend the rules cited as 15A NCAC 07H .2701, .2704, .2705 and 15A NCAC 07J .0409.*

**Link to agency website pursuant to G.S. 150B-19.1(c):**  
<https://deq.nc.gov/permits-regulations/rules-regulations/proposed-main>

**Proposed Effective Date:** June 1, 2019

**Public Hearing:**

**Date:** February 28, 2019

**Time:** 1:15 p.m.

**Location:** Carteret County Historical Society Museum, 1008 Arendell Street, Morehead City, NC 28557

**Reason for Proposed Action:**

**15A NCAC 07H .2701, .2704, .2705:** Session Law 2018-136 Section 5.13 directs the CRC to adopt rules to revise the Commission's general permit for the construction of riprap sills for wetland enhancement in estuarine and public trust waters in order to make the general permit consistent with the US Army Corps of Engineers regional general permit for living shorelines.

**15A NCAC 07J .0409:** These amendments address procedural matters, clarifications and inconsistencies with other CRC development rules.

**Comments may be submitted to:** Braxton Davis, 400 Commerce Avenue, Morehead City, NC 28557

**Comment period ends:** March 18, 2019

**Procedure for Subjecting a Proposed Rule to Legislative Review:**

If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-431-3000.

**Fiscal impact (check all that apply).**

- ☒ **State funds affected** 15A NCAC 07H .2701, .2704, .2705
- ☐ **Environmental permitting of DOT affected**
- ☐ **Analysis submitted to Board of Transportation**
- ☐ **Local funds affected**
- ☐ **Substantial economic impact (≥\$1,000,000)**
- ☒ **Approved by OSBM**
- ☒ **No fiscal note required by G.S. 150B-21.4** 15A NCAC 07J .0409

**CHAPTER 07 - COASTAL MANAGEMENT**

**SUBCHAPTER 07H - STATE GUIDELINES FOR AREAS OF ENVIRONMENTAL CONCERN**

**SECTION .2700 – GENERAL PERMIT FOR THE CONSTRUCTION OF RIPRAP SILLS FOR WETLAND**

**ENHANCEMENT IN ESTUARINE AND PUBLIC TRUST WATERS MARSH SILLS**

**15A NCAC 07H .2701 PURPOSE**

A general permit pursuant to this Section shall allow for the construction of ~~riprap~~ marsh sills for wetland enhancement and shoreline stabilization in estuarine and public trust waters as set out in ~~Subchapter~~ 15A NCAC 07J .1100 and according to the rules in this Section. Marsh sills are generally shore-parallel structures built in conjunction with existing, created, or restored wetlands. This general permit shall not apply within the Ocean Hazard System AECs or waters adjacent to these AECs with the exception of those portions of shoreline within the Inlet Hazard Area AEC that feature characteristics of Estuarine Shorelines. Such features include the presence of wetland vegetation, lower wave energy, and lower erosion rates than in the adjoining Ocean Erodible Area.

Authority G.S. 113A-107; 113A-118.1.

**15A NCAC 07H .2704 GENERAL CONDITIONS**

- (a) Structures authorized by a permit issued pursuant to this Section shall be ~~riprap or stone~~ marsh sills conforming to the standards in these Rules.
- (b) Individuals shall allow authorized representatives of the Department of ~~Environment and Natural Resources (DENR)~~ Environmental Quality (DEQ) to make periodic inspections at any time deemed necessary in order to insure that the activity being performed under authority of this general permit is in accordance with the terms and conditions prescribed in these Rules.
- (c) The placement of ~~riprap or stone~~ marsh sills authorized in these Rules shall not interfere with the established or traditional rights of navigation of the waters by the public.
- (d) This permit shall not be applicable to proposed construction where the Department has determined, based on an initial review of the application, that notice and review pursuant to G.S. 113A-119 is necessary because there are unresolved questions concerning the proposed activity's impact on adjoining properties or on water quality, air quality, coastal wetlands, cultural or historic sites, wildlife, fisheries resources, or public trust rights.
- (e) This permit does not eliminate the need to obtain any other required state, local, or federal authorization.
- (f) Development carried out under this permit shall be consistent with all local requirements, AEC Guidelines as set out in ~~Subchapter~~ 15A NCAC 07H .0200, and local land use plans current at the time of authorization.

Authority G.S. 113A-107; 113A-118.1.

**15A NCAC 07H .2705 SPECIFIC CONDITIONS**

- (a) A general permit issued pursuant to this Section shall be applicable only for the construction of ~~riprap or stone~~ marsh sill structures built in conjunction with existing, created or restored wetlands. Planted wetland vegetation shall consist only of native species.
- (b) ~~This general permit shall not apply within the Ocean Hazard System Areas of Environmental Concern (AEC) or waters adjacent to these AECs with the exception of those portions of shoreline within the Inlet Hazard Area AEC that feature characteristics of Estuarine Shorelines. Such features include the~~



~~presence of wetland vegetation, lower wave energy, and lower erosion rates than in the adjoining Ocean Erodeable Area.~~

~~(e)(b) On shorelines where no fill is proposed, the~~ The ~~landward edge of the sill shall be positioned no more than 5 greater than 30 feet waterward of the waterward depth contour of locally growing wetlands or to mid tide depth contour, of the normal high water or normal water level or five feet waterward of the existing wetlands, whichever distance is greater. Where no wetlands exist, in no case shall the landward edge of the sill be positioned greater than 30 feet waterward of the mean high water or normal high water line.~~

~~(d) On shorelines where fill is proposed, the landward edge of the sill shall be positioned no more than 30 feet waterward of the existing mean high water or normal high water line.~~

~~(e)(c) The permittee shall maintain the authorized sill and existing or planted wetlands including wetlands and tidal inundation in conformance with the terms and conditions of this permit, or the remaining sill structures shall be removed within 90 days of notification from the Division of Coastal Management.~~

~~(f)(d) The height of sills shall not exceed six 12 inches above mean normal high water, normal water level, or the height of the adjacent wetland substrate, whichever is greater, higher.~~

~~(g)(e) Sill construction authorized by this permit shall be limited to a maximum length of 500 feet.~~

~~(h) Sills shall be porous to allow water circulation through the structure.~~

~~(i)(f) The sills shall have at least one five-foot drop down or opening every 100 feet and may be staggered or overlapped or left open as long as the five-foot drop down or separation between sections is maintained. Overlapping sections shall not overlap more than 10 feet. Deviation from these drop down opening requirements shall be allowable following coordination with the N.C. Division of Marine Fisheries and the National Marine Fisheries Service, N.C. Division of Coastal Management.~~

~~(j)(g) The riprap sill structure shall not exceed a slope of a one foot rise over a two foot horizontal distance and a minimum slope of a one and a half foot rise over a one foot horizontal distance, one and a half foot horizontal distance over a one foot vertical rise. The width of the structure on the bottom shall be no wider than 15 not exceed 12 feet.~~

~~(k) For the purpose of protection of public trust rights, fill waterward of the existing mean high water line shall not be placed higher than the mean high water elevation.~~

~~(l) The permittee shall not claim title to any lands raised above the mean high or normal water levels as a result of filling or accretion.~~

~~(m)(h) For water bodies more narrow narrower than 150 feet, no portion of the structures shall not be positioned offshore more than one sixth (1/6) the width of the waterbody.~~

~~(n)(i) The sill shall not be within a navigation channel or associated setbacks marked or maintained by a state or federal agency.~~

~~(o)(j) The sill shall not interfere with leases or franchises for shellfish culture.~~

~~(p)(k) All structures shall have a minimum setback distance of 15 feet between any parts of the structure and the adjacent property owner's riparian access corridor, unless either a signed waiver statement is obtained from the adjacent property owner or the portion of the structure within 15 feet of the adjacent riparian~~

access corridor is located no more than 25 feet from the ~~mean~~ normal high or normal water level. The riparian access corridor line is determined by drawing a line parallel to the channel, then drawing a line perpendicular to the channel line that intersects with the shore at the point where the upland property line meets the water's ~~edge.~~ edge, as defined in 15A NCAC 07H .1205(t). Additionally, the sill shall not interfere with the exercise of riparians rights by adjacent property owners, including access to navigation channels from piers, or other means of access.

~~(q) The sill shall not interfere with the exercise of riparian rights by adjacent property owners, including access to navigation channels from piers, or other means of access.~~

~~(r)(l) Sills shall be marked at 50-foot intervals with yellow reflectors extending at least three feet above mean normal high water level, or normal water level and must be maintained for the life of the structure.~~

~~(s)(m) If the crossing of wetlands with mechanized construction equipment is necessary, temporary construction mats shall be utilized for the areas to be crossed. The temporary mats shall be removed immediately upon completion of the construction of the riprap sill structure. Material used to construct the sill shall not be stockpiled on existing wetlands or in open water unless fully contained in a containment structure supported by construction mats.~~

~~(t)(n) Sedimentation and erosion control measures shall be implemented to ensure that eroded materials do not enter adjacent wetlands or waters.~~

~~(u)(o) No excavation or filling of any native submerged aquatic vegetation other than that necessary for the construction and proper bedding of the sill structure is authorized by this general permit.~~

~~(p) Sills shall not be constructed within any native submerged aquatic vegetation. If submerged aquatic vegetation is present within a project area, a submerged aquatic vegetation survey should be completed during the growing season of April 1 through September 30. All sills shall have a minimum setback of 10 feet from any native submerged aquatic vegetation.~~

~~(q) Sills shall not be constructed within any habitat that includes oyster reefs or shell banks. All sills shall have a minimum setback of 10 feet from any oysters, oyster beds, or shell banks.~~

~~(v)(r) No excavation of the shallow water bottom or any wetland is authorized by this general permit.~~

~~(w) No more than 100 square feet of wetlands may be filled as a result of the authorized activity.~~

~~(x) Backfilling of sill structures may be utilized only for the purpose of creating a suitable substrate for the establishment or reestablishment of wetlands. Only clean sand fill material may be utilized.~~

~~(y)(s) The riprap sill material shall consist of clean rock rock, marl, oyster shell, or masonry materials such as granite or broken concrete. Concrete or other materials that are approved by the N.C. Division of Coastal Management, Riprap Sill material shall be free of loose sediment or any pollutant. Pollutant, including exposed rebar. The structures sill material shall be of sufficient size and slope to prevent its movement from the site approved alignment by wave or current action.~~

~~(z) If one or more contiguous acre of property is to be graded, excavated or filled, an erosion and sedimentation control plan shall be filed with the Division of Energy, Mineral, and Land~~

~~Resources, or appropriate government having jurisdiction. The plan must be approved prior to commencing the land disturbing activity.~~

~~(aa) In order to ensure that no adverse impacts occur to important fisheries resources, the Division of Marine Fisheries shall review and concur with the location and design of the proposed project prior to the issuance of this general permit.~~

~~(bb) Prior to the issuance of this general permit, Division staff shall coordinate with the Department of Administration's State Property Office to determine whether or not an easement shall be required for the proposed activity.~~

~~(cc) Following issuance of this general permit, the permittee shall contact the N.C. Division of Water Quality and the U.S. Army Corps of Engineers to determine any additional permit requirements. Any such required permits, or a certification from the appropriate agency(s) that no additional permits are required, shall be obtained and copies provided to the Division of Coastal Management prior to the initiation of any development activities authorized by this permit.~~

*Authority G.S. 113A-107; 113A-118.1.*

**SUBCHAPTER 07J - PROCEDURES FOR PROCESSING  
AND ENFORCEMENT OF MAJOR AND MINOR  
DEVELOPMENT PERMITS, VARIANCE REQUESTS,  
APPEALS FROM PERMIT DECISIONS,  
DECLARATORY RULINGS, AND STATIC LINE  
EXCEPTIONS**

**SECTION .0400 - FINAL APPROVAL AND  
ENFORCEMENT**

**15A NCAC 07J .0409 CIVIL PENALTIES**

(a) Purpose and Scope. These Rules provide the procedures and standards governing the assessment, remission, settlement and appeal of civil penalties assessed by the Coastal Resources Commission and the Director pursuant to G.S. 113A-126(d).

(b) Definitions. The terms used herein shall be as defined in G.S. 113A-103 and as follows:

- (1) "Act" means the Coastal Area Management Act of 1974, G.S. 113A-100 through 134, plus amendments.
- (2) "Delegate" means the Director or other employees of the Division of Coastal Management, or local permit officers to whom the Commission has delegated authority to act in its stead pursuant to this Rule.
- (3) "Director" means the Director, Division of Coastal Management.
- (4) "Respondent" means the person to whom a notice of violation has been issued or against whom a penalty has been assessed.
- (5) "Person" is defined in the Coastal Area Management Act, G.S. 113A-103(9).

(c) Civil penalties may be assessed against any person who commits a violation as provided for in G.S. 113A-126(d)(1) and (2).

(d) Investigative costs. Pursuant to G.S. 113A-126(d)(4a) the Commission or Director may also assess a respondent for the costs

incurred by the Division for investigation, inspection, and monitoring associated with assessment the civil penalty. Investigative costs shall be in addition to any civil penalty assessed. For a minor development violation, investigative costs shall not exceed one-half of the amount of the civil penalty assessed or one thousand dollars (\$1,000), whichever is less. For a major development violation, investigative costs shall not exceed one-half of the amount of the civil penalty assessed or two thousand five hundred dollars (\$2,500), whichever is less. The Division shall determine the amount of investigative costs to assess based upon factors including the amount of staff time required for site visits, investigation, enforcement action, interagency coordination, and for monitoring restoration of the site.

(e) Notice of Violation. The Commission hereby authorizes employees of the Division of Coastal Management to issue in the name of the Commission notices of violation to any person engaged in an activity which constitutes a violation for which a civil penalty may be assessed. Such notices shall set forth the nature of the alleged violation, shall order that the illegal activity be ceased and affected resources be restored in accordance with ~~15A NCAC 07J .0410. Rule .0410 of this Section.~~ The notice shall specify the time by which the restoration shall be completed as ordered by the Division. The notice shall be delivered ~~personally~~ or by registered or certified mail, return receipt requested.

(f) Civil Penalty Assessment.

- (1) The Commission hereby delegates to the Director the authority to assess civil penalties according to the procedures set forth in Paragraph (g) of this Rule.
- (2) ~~The Director shall~~ If restoration of affected resources is not required, the Director may issue a notice of assessment within 30 90 days from the date of the Notice of Violation. If restoration of affected resources is required, the Director may issue a Notice of Assessment within 60 days after the Division determines that restoration of the adversely impacted resources is complete. complete or due date of restoration completion.
- (3) The notice of assessment shall specify the reason for assessment, how the assessment was calculated, when and where payment shall be made, and shall inform the respondent of the right to appeal the assessment by filing a petition for a contested case hearing with the Office of Administrative Hearings pursuant to G.S. 150B-23. The notice shall be delivered ~~personally~~ or by registered or certified mail, return receipt requested.

(g) Amount of Assessment.

- (1) Civil penalties shall not exceed the maximum amounts established by G.S. 113A-126(d).
- (2) If any respondent willfully continues to violate by action or inaction any rule or order of the Commission after the date specified in a notice of violation, each day the violation continues or is repeated shall be considered a separate violation as provided in G.S. 113A-126(d)(2).

**PROPOSED RULES**

- (3) In determining the amount of the penalty, the Commission or Director shall consider the factors contained in G.S. 113A-126(d)(4).
- (4) Pursuant to Subparagraph ~~(g)(3) of this Rule,~~ (3) of this Paragraph, penalties for major development violations, including violations of permit conditions, shall be assessed in accordance with the following criteria.
- (A) Major development which could have been permitted under the Commission's rules at the time the notice of violation is issued shall be assessed a penalty equal to two times the relevant CAMA permit application fee, plus investigative costs.
- (B) Major development which could not have been permitted under the Commission's rules at the time the

notice of violation is issued shall be assessed an amount equal to the relevant CAMA permit application fee, plus a penalty pursuant to Schedule A of this Rule, plus investigative costs. If a violation affects more than one area of environmental concern (AEC) or coastal resource as listed within Schedule A of this Rule, the penalties for each affected AEC shall be combined. Any structure or part of a structure that is constructed in violation of existing Commission rules shall be removed or modified as necessary to bring the structure into compliance with the Commission's rules.

**SCHEDULE A**  
**Major Development Violations**

Size of Violation (sq. ft.)

<b>AREA OF ENVIRONMENTAL CONCERN AFFECTED</b>	<b>≤ 100</b>	<b>101-500</b>	<b>501-1,000</b>	<b>1001-3000</b>	<b>3001-5000</b>	<b>5001-8000</b>	<b>8001-11,000</b>	<b>11,001-15,000</b>	<b>15,001-20,000</b>	<b>20,001-25,000</b>	<b>&gt;25,000</b>
<b>ESTUARINE WATERS OR PUBLIC TRUST AREAS (1)</b>	\$250	\$375	\$500	\$1,500	\$2,000	\$3,500	\$5,000	\$7,000	\$9,000	\$10,000	\$10,000
Primary Nursery Areas	\$100	\$225	\$350	\$850	\$1,350	\$2,850	\$4,350	\$3,000	\$1,000	n/a	n/a
Mudflats and Shell Bottom	\$100	\$225	\$350	\$850	\$1,350	\$2,850	\$4,350	\$3,000	\$1,000	n/a	n/a
Submerged Aquatic Vegetation	\$100	\$225	\$350	\$850	\$1,350	\$2,850	\$4,350	\$3,000	\$1,000	n/a	n/a
<b>COASTAL WETLANDS</b>	\$250	\$375	\$500	\$1,500	\$2,000	\$3,500	\$5,000	\$7,000	\$9,000	\$10,000	\$10,000
<b>COASTAL SHORELINES</b>	\$250	\$350	\$450	\$850	\$1,250	\$2,450	\$3,650	\$5,250	\$7,250	\$9,250	\$10,000
Wetlands (2)	\$100	\$200	\$300	\$700	\$1,100	\$2,300	\$3,500	\$4,750	\$2,750	\$750	n/a
ORW- Adjacent Areas	\$100	\$200	\$300	\$700	\$1,100	\$2,300	\$3,500	\$4,750	\$2,750	\$750	n/a
<b>OCEAN HAZARD SYSTEM (3)(4)</b>	\$250	\$350	\$450	\$850	\$1,250	\$2,450	\$3,650	\$5,250	\$7,250	\$9,250	\$10,000
Primary or Frontal Dune	\$100	\$200	\$300	\$700	\$1,100	\$2,300	\$3,500	\$4,750	\$2,750	\$750	n/a
<b>PUBLIC WATER SUPPLIES (5)</b>	\$250	\$350	\$450	\$850	\$1,250	\$2,450	\$3,650	\$5,250	\$7,250	\$9,250	\$10,000

**PROPOSED RULES**

<b>NATURAL AND CULTURAL RESOURCE AREAS (6)</b>	\$250	\$350	\$450	\$850	\$1,250	\$2,450	\$3,650	\$5,250	\$7,250	\$9,250	\$10,000
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- (1) Includes the Atlantic Ocean from the normal high water mark to three miles offshore.
- (2) Wetlands that are jurisdictional by the Federal Clean Water Act.
- (3) If the AEC physically overlaps another AEC, use the greater penalty schedule.
- (4) Includes the Ocean Erodible, ~~High Hazard Flood Area~~, Inlet Hazard Area, and Unvegetated Beach Area.
- (5) Includes Small Surface Water Supply, Watershed and Public Water Supply Well Fields.
- (6) Includes Coastal Complex Natural Areas, Coastal Areas Sustaining Remnant Species, Unique Geological Formations, Significant Coastal Archaeological Resources, and Significant Coastal Historical Architectural Resources.

(C) Assessments for violations by public agencies (i.e. towns, counties and state agencies) shall be determined in accordance with Parts (g)(4)(A) and (B) of this Rule.

(D) Willful and intentional violations. The penalty assessed under Parts (g)(4)(A) and (B) of this Rule shall be doubled for willful and intentional violations except that the doubled penalties assessed under this Subparagraph shall not exceed ten thousand dollars (\$10,000) or be less than two thousand dollars (\$2,000) for each separate violation. A violation shall be considered to be willful and intentional when:

- (i) The person received written instructions from one of the Commission's delegates that a permit would be required for the development and subsequently undertook development without a permit; or
- (ii) The person received written instructions from one of the Commission's delegates that the proposed development was not permissible under the Commission's rules, or received denial of a permit application for the proposed activity, and subsequently undertook the development without a permit; or

- (iii) The person committed previous violations of the Commission's rules; or
- (iv) The person refused or failed to restore a damaged area as ordered by one of the Commission's delegates. If necessary, the Commission or Division shall seek a court order to require restoration.

(E) Assessments against contractors. Any contractor or subcontractor or person or group functioning as a contractor shall be subject to a notice of violation and assessment of a civil penalty in accordance with Paragraph (f) of this Rule. Such penalty shall be in addition to that assessed against the landowner. When a penalty is being doubled pursuant to ~~Part (g)(4)(D)~~ Part (D) of this Subparagraph and the element of willfulness is present only on the part of the contractor, the landowner shall be assessed the standard penalty and the contractor shall be assessed the doubled penalty.

(F) Continuing violations.

- (i) Pursuant to G.S. 113A-126(d)(2), each day that the violation continues after the date specified in the notice of violation for the unauthorized activity to cease or restoration to be completed shall be considered a separate violation and shall be assessed an additional penalty.
- (ii) Refusal or failure to restore a damaged area as ordered shall be considered a continuing violation and shall be assessed an additional penalty. When resources continue to be affected by the violation, the amount of the penalty shall be determined according to ~~Part (g)(4)(B) of this Rule~~. Part (B) of this Subparagraph. The continuing penalty period shall be calculated from the

**PROPOSED RULES**

date specified in the notice of violation for the unauthorized activity to cease or restoration to be completed and run until:

- (I) the Division's order is satisfied, or
- (II) the respondent enters into good faith negotiations with the Division, or
- (III) the respondent contests the Division's order in a judicial proceeding by raising a justiciable issue of law or fact therein.

The continuing penalty period shall resume if the respondent terminates negotiations without reaching an agreement with the Division, fails to comply with court ordered restoration, or fails to meet a deadline for restoration that was negotiated with the Division.

- (5) Pursuant to Subparagraph (g)(3) of this Rule, civil penalties for minor development violations, including violations of permit

conditions, shall be assessed in accordance with the following criteria:

- (A) Minor development which could have been permitted under the Commission's rules at the time the notice of violation is issued shall be assessed a penalty equal to two times the relevant CAMA permit application fee, plus investigative costs.
- (B) Minor development which could not have been permitted under the Commission's rules at the time the notice of violation is issued shall be assessed an amount equal to the relevant CAMA permit application fee, plus a penalty pursuant to Schedule B of this Rule, plus investigative costs. If a violation affects more than one area of environmental concern (AEC) or coastal resource as listed within Schedule B of this Rule, the penalties for each affected AEC shall be combined. Any structure or part of a structure that is constructed in violation of existing Commission rules shall be removed or modified as necessary to bring the structure into compliance with the Commission's rules.

**SCHEDULE B  
Minor Development Violations**

AREA OF ENVIRONMENTAL CONCERN AFFECTED	Size of Violation (sq. ft.)										
	≤ 100	101-500	501-1,000	1001-3000	3001-5000	5001-8000	8001-11,000	11,001 - 15,000	15,001 - 20,000	20,001 - 25,000	>25,000
<b>COASTAL SHORELINES</b>	\$225	\$250	\$275	\$325	\$375	\$450	\$525	\$625	\$750	\$875	\$1,000
ORW- Adjacent Areas	\$125	\$150	\$175	\$225	\$275	\$350	\$425	\$375	\$250	\$125	n/a
<b>OCEAN HAZARD SYSTEM (1)(2)</b>	\$225	\$250	\$275	\$325	\$375	\$450	\$525	\$625	\$750	\$875	\$1,000
Primary or Frontal Dune	\$125	\$150	\$175	\$225	\$275	\$350	\$425	\$375	\$250	\$125	n/a
<b>PUBLIC WATER SUPPLIES (3)</b>	\$225	\$250	\$275	\$325	\$375	\$450	\$525	\$625	\$750	\$875	\$1,000
<b>NATURAL AND CULTURAL RESOURCE AREAS (4)</b>	\$225	\$250	\$275	\$325	\$375	\$450	\$525	\$625	\$750	\$875	\$1,000

- (1) Includes the Ocean Erodible, ~~High-Hazard Flood Area~~, Inlet Hazard Area, and Unvegetated Beach Area.
  - (2) If the AEC physically overlaps another AEC, use the greater penalty schedule.
  - (3) Includes Small Surface Water Supply, Watershed and Public Water Supply Well Fields.
  - (4) Includes Coastal Complex Natural Areas, Coastal Areas Sustaining Remnant Species, Unique Geological Formations, Significant Coastal Archaeological Resources, and Significant Coastal Historical Architectural Resources.
- (C) Violations by public agencies (e.g. towns, counties and state agencies) shall be handled by the local permit officer or one of the Commission's delegates within their respective jurisdictions except that in no case shall a local permit officer handle a violation committed by the local government they represent. Penalties shall be assessed in accordance with Parts ~~(g)(5)(A) and (B) of this Rule.~~ (A) and (B) of this Subparagraph.
- (D) Willful and intentional violations. The penalty assessed under Parts ~~(g)(5)(A) and (B) of this Rule~~ (A) and (B) of this Subparagraph shall be doubled for willful and intentional violations except that the doubled penalties assessed under this Subparagraph shall not exceed one thousand dollars (\$1,000.00) for each separate violation. A violation shall be considered to be willful and intentional when:
- (i) The person received written instructions from the local permit officer or one of the Commission's delegates that a permit would be required for the development and subsequently undertook development without a permit; or
  - (ii) The person received written instructions from the local permit officer or one of the Commission's delegates that the proposed development was not permissible under the Commission's rules, or received denial of a permit application for the proposed activity, and subsequently undertook the development without a permit; or
- (iii) The person committed previous violations of the Commission's rules; or
- (iv) The person refused or failed to restore a damaged area as ordered by the local permit officer or one of the Commission's delegates. If necessary, a court order shall be sought to require restoration.
- (E) Assessments against contractors. Any contractor or subcontractor or person or group functioning as a contractor shall be subject to a notice of violation and assessment of a civil penalty in accordance with Paragraph (f) of this Rule. Such penalty shall be in addition to that assessed against the landowner. When a penalty is being doubled pursuant to Part ~~(g)(5)(D) of this~~ Subparagraph and the element of willfulness is present only on the part of the contractor, the landowner shall be assessed the standard penalty and the contractor shall be assessed the doubled penalty.
- (F) Continuing violations.
- (i) Pursuant to G.S. 113A-126(d)(2), each day that the violation continues after the date specified in the notice of violation for the unauthorized activity to cease and restoration to be completed shall be considered a separate violation and shall be assessed an additional penalty.
  - (ii) Refusal or failure to restore a damaged area as ordered shall be considered a continuing violation and shall be assessed an additional penalty. The amount of the penalty shall be determined according to Part ~~(g)(5)(B) of this Rule.~~ (B) of this Subparagraph. The continuing penalty period shall be calculated from the date specified in the notice of violation for the unauthorized activity to cease and restoration to be completed and run until:

- (I) the Commission delegate's order is satisfied, or
- (II) the respondent enters into good faith negotiations with the local permit officer or the Division, or
- (III) the respondent contests the local permit officer's or the Division's order in a judicial proceeding by raising a justiciable issue of law or fact therein.

The continuing penalty period shall resume if the respondent terminates negotiations without reaching an agreement with the local permit officer or the Division, fails to comply with court ordered restoration, or fails to meet a deadline for restoration that was negotiated with the local permit officer or the Division.

(h) Hearings and Final Assessment. Final decisions in contested case hearings concerning assessments shall be made by the Commission. The final decision shall be based on evidence in the official record of the contested case hearing, the administrative law judge's recommended decision, any exceptions filed by the parties and oral arguments. Oral arguments shall be limited to the facts in the official record.

(i) Referral. If any civil penalty as finally assessed is not paid, the Director on behalf of the Commission shall request the Attorney General to commence an action to recover the amount of the assessment.

(j) Reports to the Commission. Action taken by the Director shall be reported to the Commission at the next meeting. Such reports shall include information on the following:

- (1) respondent(s) against whom penalties have been assessed;
- (2) respondent(s) who have paid a penalty, requested remission, or requested an administrative hearing;
- (3) respondent(s) who have failed to pay; and
- (4) cases referred to the Attorney General for collection.

(k) Settlements. The Commission hereby delegates to the Director the authority to enter into a settlement of a civil penalty appeal at any time prior to decision in an administrative contested case hearing. Such settlements shall not require the approval of the Commission and shall not be considered a final Commission decision for purposes of G.S. 113A-123.

(l) Any settlement agreement proposed subsequent to a final Commission decision in the contested case shall be submitted to the Commission for approval.

*Authority G.S. 113A-124; 113A-126(d).*

## **TITLE 20 – DEPARTMENT OF STATE TREASURER**

*Notice is hereby given in accordance with G.S. 150B-21.2 that the Supplemental Retirement Board of Trustees and the Department of State Treasurer intends to adopt the rules cited as 20 NCAC 11 .0101 and .0102.*

**Link to agency website pursuant to G.S. 150B-19.1(c):**  
<https://www.nctreasurer.com/inside-the-department/opengovernment/proposed-rules/pages/default.aspx>

**Proposed Effective Date:** June 1, 2019

**Instructions on How to Demand a Public Hearing:** *(must be requested in writing within 15 days of notice): Any person may request a public hearing on the proposed rules by submitting a request in writing no later than January 30, 2019 to Laura Rowe, Rulemaking Coordinator, Department of State Treasurer, 3200 Atlantic Avenue, Raleigh, NC 27604.*

**Reason for Proposed Action:** *The Supplemental Retirement Board and the Department of State Treasurer do not receive any appropriations to operate the NC 401(k) Plan, the NC 457 Plan, or the NC 403(b) Program. Instead, to the knowledge of the Department, the operational expenses of the Board and the Department have historically been funded through an administrative fee charged to participants who opt to enroll in the Supplemental Retirement Plans. The Board and the Department will use the administrative fee receipts to fund the administration of the Plans, including Departmental personnel costs and investment consulting and auditing fees.*

**Comments may be submitted to:** Laura Rowe, 3200 Atlantic Avenue, Raleigh, NC 27604, email [dst.ncac@nctreasurer.com](mailto:dst.ncac@nctreasurer.com)

**Comment period ends:** March 18, 2019

**Procedure for Subjecting a Proposed Rule to Legislative Review:** If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-431-3000.

**Fiscal impact (check all that apply).**

☒ State funds affected

- ☐ Environmental permitting of DOT affected Analysis submitted to Board of Transportation
- ☐ Local funds affected
- ☒ Substantial economic impact (≥\$1,000,000)
- ☒ Approved by OSBM
- ☐ No fiscal note required by G.S. 150B-21.4

**CHAPTER 11 – SUPPLEMENTAL RETIREMENT PLANS**

**SECTION .0100 – ADMINISTRATIVE FEES**

**20 NCAC 11 .0101 ADMINISTRATIVE FEES: NC 401(K) AND NC 457 PLANS**

(a) The Board and the Department shall charge an administrative fee at an annual rate of 0.025 percent of the assets in each account in the Supplemental Retirement Income Plan of North Carolina and in each account in the North Carolina Public Employee Deferred Compensation Plan.

(b) The Board and the Department may waive the administrative fee in Paragraph (a) of this Rule for a period of up to 12 months based upon the following factors:

- (1) The balance of the administrative expense account for the plans;
- (2) Department projections of future expenses to administer the plans; and
- (3) Department projections of future receipts available for the administration of the plans.

(c) The Board and the Department shall provide notice of a fee waiver on the plans' website and on participants' quarterly statements.

*Authority G.S. 135-91(e); 143B-426.24(h2).*

**20 NCAC 11 .0102 ADMINISTRATIVE FEES: NC 403(B) PROGRAM**

(a) The Board and the Department shall charge an administrative fee at an annual rate of 0.050 percent of the assets in each account in the North Carolina Public School Teachers' and Professional Educators' Investment Plan.

(b) The Board may waive the administrative fee in Paragraph (a) of this Rule for a period of up to 12 months based upon the following factors:

- (1) The balance of the administrative expense account for the plan;
- (2) Department projections of future expenses to administer the plan; and
- (3) Department projections of future receipts available for the administration of the plan.

(c) The Board and the Department shall provide notice of a fee waiver on the plan's website and on participants' quarterly statements.

*Authority G.S. 115C-341.2(c).*

**TITLE 21 – OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS**

**CHAPTER 08 – BOARD OF CERTIFIED PUBLIC ACCOUNTANT EXAMINERS**

*Notice is hereby given in accordance with G.S. 150B-21.2 that the Board of Certified Public Accountant Examiners intends to amend the rule cited as 21 NCAC 08F .0105.*

**Link to agency website pursuant to G.S. 150B-19.1(c):** [www.nccpaboard.gov](http://www.nccpaboard.gov)

**Proposed Effective Date:** January 1, 2020

**Public Hearing:**

**Date:** February 18, 2019

**Time:** 10:00 a.m.

**Location:** NC State Board of CPA Examiners, 1101 Oberlin Road, Suite 104, Raleigh, NC 27605

**Reason for Proposed Action:** 21 NCAC 08F .0105 explains how many times a Uniform CPA Examination (Exam) candidate can take the same section of the Exam. The Exam vendor is changing when an Exam candidate may retake the same section of the Uniform CPA Examination.

**Comments may be submitted to:** Robert N. Brooks, NC State Board of CPA Examiners, 1101 Oberlin Road, Suite 104, Raleigh, NC 27605; phone (919) 733-1425; fax (919) 733-4209; email [rbrooks@nccpaboard.gov](mailto:rbrooks@nccpaboard.gov)

**Comment period ends:** March 18, 2019

**Procedure for Subjecting a Proposed Rule to Legislative Review:** If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-431-3000.

**Fiscal impact (check all that apply).**

- ☐ State funds affected
- ☐ Environmental permitting of DOT affected Analysis submitted to Board of Transportation
- ☐ Local funds affected
- ☐ Substantial economic impact (≥\$1,000,000)
- ☐ Approved by OSBM
- ☒ No fiscal note required by G.S. 150B-21.4

**SUBCHAPTER 08F - REQUIREMENTS FOR CERTIFIED PUBLIC ACCOUNTANT EXAMINATION AND**



**CERTIFICATE APPLICANTS**

**SECTION .0100 - GENERAL PROVISIONS**

**21 NCAC 08F .0105      CONDITIONING REQUIREMENTS**

(a) Passing Grades. A candidate shall pass all sections of the examination with a grade of 75 or higher on each section.  
 (b) Military Service. A candidate who is on active military service shall not have the time on active military service counted against Subparagraph (c)(1) of this Rule unless the candidate applies to take the examination during the active military service, in which case each month a candidate sits shall be counted toward Subparagraph (c)(1) of this Rule.

(c) A candidate is subject to the following conditioning requirements:

- (1) a candidate shall obtain a passing grade on all sections of the examination within an 18-month period;
- (2) a candidate may sit for any section of the examination individually;
- (3) a candidate may ~~sit for each~~ retake a section of the examination ~~up to four times during a one-year period but not more than one time in a three-month testing window as defined by the examination vendors(s); once the candidate's grade for any previous attempt of that same section has been released;~~ and
- (4) credit awarded by the Board for passage of a section of the examination is valid for an 18-month period beginning on the date the section is taken.

*Authority G.S. 93-12(3); 93-12(5).*

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**CHAPTER 39 – ON-SITE WASTEWATER CONTRACTORS AND INSPECTORS CERTIFICATION BOARD**

*Notice is hereby given in accordance with G.S. 150B-21.2 that the On-Site Wastewater Contractors and Inspectors Certification Board intends to adopt the rules cited as 21 NCAC 39 .0103; .0802, .0803; .0901-.0903 and amend the rule cited as 21 NCAC 39 .1005.*

**Link to agency website pursuant to G.S. 150B-19.1(c):**  
[www.ncowcibb.info](http://www.ncowcibb.info)

**Proposed Effective Date:** July 1, 2019

**Public Hearing:**

**Date:** January 31, 2019

**Time:** 10:00 a.m.

**Location:** Emeralds View, 1426 Peter Mabe Road, Danbury, NC 27016

**Reason for Proposed Action:**

*21 NCAC 39 .0103 Establish process for filing reports and maintaining escrow accounts per G.S. 93B-2*

*21 NCAC 39 .0802 Notify certificate holders of responsibility to respond to Board inquiries*

*21 NCAC 39 .0803 Establish responsibility when work is delegated*

*21 NCAC 39 .0901 Establish process for rulemaking petitions*

*21 NCAC 39 .0902 Establish process for declaring ruling requests*

*21 NCAC 39 .0903 Establish process when Board refuses to issue a declaratory ruling*

*21 NCAC 39 .1005 Amend rule to clarify inspections*

**Comments may be submitted to:** *Connie S. Stephens, NC On-Site Wastewater Contractors and Inspectors Certification Board, P.O. Box 132, Lawsonville, NC 27022, phone (336) 202-3126, email csstephens@ncowcibb.info*

**Comment period ends:** March 18, 2019

**Procedure for Subjecting a Proposed Rule to Legislative Review:**

If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-431-3000.

**Fiscal impact (check all that apply).**

- ☐ State funds affected
- ☐ Environmental permitting of DOT affected
- ☐ Analysis submitted to Board of Transportation
- ☐ Local funds affected
- ☐ Substantial economic impact (≥\$1,000,000)
- ☐ Approved by OSBM
- ☒ No fiscal note required by G.S. 150B-21.4

**SECTION .0100 - DUTIES AND DEFINITIONS**

**21 NCAC 39 .0103      ANNUAL REPORTS**

(a) On or before October 31 of each year, the Board shall prepare and file reports required pursuant to G.S. 93B-2. The Board shall file reports in the manner requested by receiving agency or committee.

(b) The Board shall maintain an escrow account at the financial institution used regularly for deposits and checks. Fees tendered during a period of suspension under G.S. 93B-2(d) shall be deposited into this escrow account.

*Authority G.S. 93B-2.*

**SECTION .0800 – ONSITE WASTEWATER  
CONTRACTOR OR INSPECTORS CODE OF ETHICS**

**21 NCAC 39 .0802 COOPERATION WITH BOARD  
INQUIRY**

A certificate holder shall respond to any inquiry made by the Board within 21 days from the date the inquiry was received by the certificate holder.

*Authority G.S. 90A-74(6).*

**21 NCAC 39 .0803 DELEGATING TO THIRD-  
PARTY SERVICE PROVIDERS**

(a) If a certificate holder delegates service requested by a client to another certificate holder, he or she must give notice to the client on or before the date of service that said work is being delegated to another certificate holder.

(b) The certificate holder who delegates service as indicated above shall be jointly and severably responsible for all aspects of the service provided to the client.

*Authority G.S. 90A-74(6).*

**SECTION .0900 – RULEMAKING PROCEDURES**

**21 NCAC 39 .0901 PETITION FOR RULE-MAKING**  
Any person submitting a petition to adopt, amend, or repeal a rule by the Board shall address a petition to the Chairman at the Board office as follows: Post Office Box 132, Lawsonville, North Carolina 27022.

- (1) The petition shall contain the following:
  - (a) for petitions to adopt or amend a rule, a draft of the proposed rule or amendment;
  - (b) a statement of the effect of the requested rule change; and
  - (c) the name and address of the petitioner.
- (2) The petition may contain the following:
  - (a) the reason for the proposal;
  - (b) the effect of the new rule on existing rules; or
  - (c) any data supporting the rule proposal.

*Authority G.S. 150B-20; 90A-74.*

**21 NCAC 39 .0902 REQUEST FOR DECLARATORY  
RULING**

All requests for a declaratory ruling shall contain the following information:

- (1) the name, address, and telephone number of the person making the request;
- (2) the statute or rule to which the request relates; and
- (3) a statement describing the manner in which the person has been or may be aggrieved by the statute or rule.

If a hearing is desired, the request shall so state and shall include the reason a hearing is desired.

*Authority G.S. 150B-4(a); 90A-74.*

**21 NCAC 39 .0903 REFUSAL TO ISSUE  
DECLARATORY RULING**

The Board shall refuse to issue a declaratory ruling under the following circumstances:

- (1) when the Board has issued a decision in a contested case with substantially similar facts;
- (2) when the facts underlying the request for a ruling on a rule were considered at the time of the adoption of the rule in question; or
- (3) when the subject matter of the request is involved in pending litigation in North Carolina.

*Authority G.S. 150B-4; 90A-74.*

**SECTION .1000 - NC ON-SITE WASTEWATER  
INSPECTOR STANDARDS OF PRACTICE**

**21 NCAC 39 .1005 ON-SITE WASTEWATER  
SYSTEM COMPONENTS**

(a) When inspecting an on-site wastewater system the inspector shall inspect and describe the following in a report described in Rule .1002 of this Chapter:

- (1) Any any part of the system located more than five feet from the primary structure that is part of the operations permit;
- (2) Septic septic tanks;
- (3) Pump pump tanks;
- (4) Distribution distribution devices;
- (5) Dispersal dispersal fields;
- (6) Treatment treatment units;
- (7) Control control panels;
- (8) Any any other components required as part of on-site wastewater system permit, including drainage; and
- (9) Any any vegetation and grading with respect only to their effect on the condition of the system or system components.

(b) The inspector shall:

- (1) Uncover uncover tank lids and distribution devices so as to gain access, unless blocked as described in Rule .1004(b)(5) of this Section. The distribution box may remain covered if the inspector has an alternate method of observing its condition;
- (2) Probe probe system components where deterioration is suspected;
- (3) Report report the methods used to inspect the on-site wastewater system;
- (4) Open open readily accessible and readily openable components as defined in Rule .1001 of this Chapter; components; and
- (5) Report report signs of abnormal or harmful water entry into or out of the system or components; components; and
- (6) conduct the inspection using the rules promulgated under Article 11 of Chapter 130A

in effect at the time of the initial construction or renovation of the system, whichever occurs later, and any subsequent installation or replacement of any system or component of the system.

(c) The inspector ~~is~~ shall not be required to:

- (1) ~~Conduct~~ conduct dosing volume calculations;
- (2) ~~Evaluate~~ evaluate soil conditions beyond saturation or ponding;
- (3) ~~Evaluate~~ evaluate for the presence or condition of buried fuel storage tanks;
- (4) ~~Evaluate~~ evaluate the system for proper sizing, design, or use of ~~proper~~ approved materials pursuant to Article 11 of Chapter 130A and the rules promulgated therefrom; ~~materials;~~ or
- (5) ~~Perform~~ perform a hydraulic load test on the system.

Authority G.S. 90A-72; 90A-74.

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## CHAPTER 58 – REAL ESTATE COMMISSION

*Notice is hereby given in accordance with G.S. 150B-21.2 and G.S. 150B-21.3A(c)(2)g. that the Real Estate Commission intends to amend the rules cited as 21 NCAC 58A .0601, .1905; 58H .0203, .0209, .0214, .0302 and readopt without substantive changes the rules cited as 21 NCAC 58A .0108, .0506, .0612 and .2002.*

*Pursuant to G.S. 150B-21.2(c)(1), the text of the rule(s) proposed for readoption without substantive changes are not required to be published. The text of the rules are available on the OAH website: <http://reports.oah.state.nc.us/ncac.asp>.*

**Link to agency website pursuant to G.S. 150B-19.1(c):**  
[www.ncrec.gov](http://www.ncrec.gov)

**Proposed Effective Date:** July 1, 2019

**Public Hearing:**

**Date:** March 13, 2019

**Time:** 9:00 a.m.

**Location:** 1313 Navaho Drive, Raleigh, NC 27609-7460

**Reason for Proposed Action:**

**21 NCAC 58A .0601 – Complaints/ Inquiries/ Motions/ Other Pleadings**

*Amend this Rule to clarify the text of the Rule that all brokers are required to cooperate with a Commission investigation.*

**21 NCAC 58A .1905 – Waiver of 90-hour Postlicensing Education Requirement**

*Amend this Rule to add language that a broker who was issued a license pursuant to 21 NCAC 58A .0511(b)(2) will not be granted a waiver of Postlicensing education.*

**21 NCAC 58H .0203 – Application for Original Approval of a Private Real Estate School**

*Amend this Rule to remove the requirement of a fire inspection report in a private school application.*

**21 NCAC 58H .0209 – Prelicensing and Postlicensing Course Enrollment**

*Amend this Rule to allow any broker to take a Postlicensing course.*

**21 NCAC 58H .0214 – Expiration and Renewal of a School Approval or License**

*Amend this Rule to remove the requirement of a fire inspection report in a private school renewal application.*

**21 NCAC 58H .0302 – Application and Criteria for Original Prelicensing, Postlicensing, or Update Course Instructor Approval**

*Amend this Rule to remove the instructor applicant video from the application process, to require instructor applicants to complete the New Instructor Seminar within the previous six months of application, and to set the completion requirements for the New Instructor Seminar.*

**Comments may be submitted to:** Melissa A. Vuotto, P.O. Box 17100, Raleigh, NC 27619-7100, email [public.comment@ncrec.gov](mailto:public.comment@ncrec.gov)

**Comment period ends:** April 1, 2019

**Procedure for Subjecting a Proposed Rule to Legislative Review:**

If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-431-3000.

**Fiscal impact (check all that apply).**

- ☐ State funds affected
- ☐ Environmental permitting of DOT affected
- ☐ Analysis submitted to Board of Transportation
- ☐ Local funds affected
- ☐ Substantial economic impact (≥\$1,000,000)
- ☐ Approved by OSBM
- ☒ No fiscal note required by G.S. 150B-21.4 21 NCAC 58A .0601, .1905; 58H .0203, .0209, .0214, .0302
- ☒ No fiscal note required by G.S. 150B-21.3A(d)(2) 21 NCAC 58A .0108, .0506, .0612, .2002

## SUBCHAPTER 58A – REAL ESTATE BROKERS

### SECTION .0100 – GENERAL BROKERAGE

**21 NCAC 58A .0108 RETENTION OF RECORD  
(READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**SECTION .0500 - LICENSING**

**21 NCAC 58A .0506 PROVISIONAL BROKER TO BE  
SUPERVISED BY BROKER (READOPTION WITHOUT  
SUBSTANTIVE CHANGES)**

**SECTION .0600 – REAL ESTATE COMMISSION  
HEARINGS**

**21 NCAC 58A .0601 COMPLAINTS/INQUIRIES/  
MOTIONS/OTHER PLEADINGS**

(a) ~~There shall be no specific form required for complaints. To be sufficient, a complaint shall be in writing, identify the respondent licensee and shall reasonably apprise the Commission of the facts which form the basis of the complaint. A complaint shall:~~

- (1) be in writing;
- (2) identify the respondent broker or firm; and
- (3) apprise the Commission of the facts which form the basis of the complaint.

~~(b) When investigating a complaint, the scope of the Commission's investigation shall not be limited only to matters alleged in the complaint. In addition, a person making a complaint to the Commission may change his or her complaint by submitting the changes to the Commission in writing. A complaint may be amended by submitting the revised complaint in writing to the Commission.~~

~~(c) When investigating a complaint, the scope of the Commission's investigation shall not be limited only to matters alleged in the complaint.~~

~~(e) When a complaint has not been submitted in conformity with this Rule, the Commission's legal counsel may initiate an investigation if the available information is sufficient to create a reasonable suspicion that any licensee or other person or entity may have committed a violation of the provisions of the Real Estate License Law or the rules adopted by the Commission.~~

~~(d) There shall be no specific forms required for answers, motions, or other pleadings relating to contested cases before the Commission, except they shall be in writing. To be sufficient, the document must reasonably apprise the Commission of the matters it alleges or answers. To be considered by the Commission, every answer, motion, request or other pleading must be submitted to the Commission in writing or made during the hearing as a matter of record.~~

(d) All answers, motions, or other pleadings relating to contested cases before the Commission shall be:

- (1) in writing or made during the hearing as a matter of record; and
- (2) apprise the Commission of the matters it alleges or answers.

~~(e) During the course of an investigation of a licensee, the Commission, through its legal counsel or other staff, may send the licensee a Letter of Inquiry requesting the licensee to respond. The Letter of Inquiry, or attachments thereto, shall set forth the subject matter being investigated. Upon receipt of the Letter of Inquiry, the licensee shall respond within 14 calendar days. Such response shall include a full and fair disclosure of all information requested.~~

~~Licensees shall include with their written response copies of all documents requested in the Letter of Inquiry.~~

(e) During the course of an investigation, any broker that receives a Letter of Inquiry from the Commission shall submit a written response within 14 days of receipt. The response shall include:

- (1) a full disclosure of all requested information;  
and
- (2) copies of all requested documents.

~~(f) Hearings in contested cases before the Commission shall be conducted according to the provisions of G.S. 150B, Article 3A.~~

~~(g)(f) Persons who make complaints are not parties to contested cases, but may be witnesses.~~

*Authority G.S. 93A-3(d); 93A-3(c); 93A-6(a); 150B-38(h).*

**21 NCAC 58A .0612 PRESIDING OFFICER  
(READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**SECTION .1900 – POST-LICENSING EDUCATION**

**21 NCAC 58A .1905 WAIVER OF 90-HOUR  
POSTLICENSING EDUCATION REQUIREMENT**

(a) A provisional North Carolina real estate broker may apply for a waiver of one or more of the three 30-hour Postlicensing courses described in Rule .1902 of this Section in the following circumstances:

- (1) the broker has obtained equivalent education that is parallel to the topics and timings described in the Commission's Postlicensing course syllabi. In this case, the waiver request shall include the course(s):
  - (A) jurisdiction of delivery;
  - (B) title;
  - (C) credit hours earned;
  - (D) beginning and end dates; and
  - (E) detailed subject matter description.
- (2) the broker has obtained full-time experience as a licensed broker or salesperson in another state for at least five of the seven years immediately prior to application for waiver, which shall include the applicant's:
  - (A) employer;
  - (B) title at employer;
  - (C) dates of employment;
  - (D) hours per week devoted to brokerage;
  - (E) approximate number of transactions;
  - (F) areas of practice;
  - (G) approximate percentage of time devoted to each area of practice;
  - (H) detailed description of applicant's role and duties;
  - (I) managing broker's name, telephone number, and email address; and
  - (J) official certification of licensure issued within the six months preceding application from a jurisdiction within a state, territory, or possession of the United States or Canada in which the applicant holds a current real estate

- license that has been active within the three years prior to application.
- (3) the broker has obtained full-time experience as a licensed North Carolina attorney practicing primarily in real estate matters for the two years immediately preceding application, which shall include the applicant's:
- (A) firm or practice name;
  - (B) law license number;
  - (C) dates of employment;
  - (D) hours per week devoted to real estate law practice;
  - (E) approximate number of closings conducted;
  - (F) detailed description of practice; and
  - (G) manager or supervising attorney's name, telephone number, and email address.

(b) The Commission shall not consider education or experience obtained in violation of any law or rule as fulfilling the requirements for waiver of the 90-hour postlicensing education requirement.

(c) A broker shall be ineligible for a waiver of the 90-hour postlicensing education requirement if the broker was issued a license pursuant to Rule .0511(b)(2) of this Subchapter.

*Authority G.S. 93A-4(a1).*

## SECTION .2000 – ANNUAL REPORTS

### 21 NCAC 58A .2002 ESCROW ACCOUNT (READOPTION WITHOUT SUBSTANTIVE CHANGES)

#### SUBCHAPTER 58H - REAL ESTATE EDUCATION

### SECTION .0200 - REAL ESTATE SCHOOLS

#### 21 NCAC 58H .0203 APPLICATION FOR ORIGINAL LICENSURE OF A PRIVATE REAL ESTATE SCHOOL

(a) Any entity seeking original licensure as a private real estate school to conduct Prelicensing or Postlicensing courses shall apply to the Commission on a form available on the Commission's website and shall set forth the following criteria in addition to the requirements in G.S. 93A-34(b):

- (1) the physical, website, and email addresses and telephone number of the principal office of the school;
- (2) the proposed school director's legal name, real estate license number, if any, email and mailing address, and telephone number;
- (3) the type of school ownership entity and the name, title, real estate license number, if any, mailing address, and ownership percentage of each individual or entity holding at least 10% ownership in the entity;
- (4) the North Carolina Secretary of State Identification Number;

- (5) the criminal history and history of occupational license disciplinary actions of individual school owner(s);
- (6) the physical address of each proposed school location;
- (7) the source of real estate examinations to be used for each course offered;
- ~~(8) a copy of a current fire inspection report;~~
- ~~(9)(8)~~ a copy of a criminal background check for the previous seven years on the proposed school director;
- ~~(10)(9)~~ a signed Consent to Service of Process and Pleadings form available on the Commission's website, if a foreign entity;
- ~~(11)(10)~~ the Prelicensing or Postlicensing courses to be offered by the school;
- ~~(12)(11)~~ the Update courses to be offered by the school; and
- ~~(13)(12)~~ the signature and certification of the school owner(s).

(b) Private real estate school names shall contain the words "Real Estate" and other words identifying the entity as a school, such as "school," "academy," or "institute" that are distinguishable from other licensed private real estate schools and from continuing education course sponsors approved by the Commission.

(c) The school name shall be used in all school publications and advertising.

(d) Each school shall certify that its facilities and equipment are in compliance with all applicable local, state and federal laws and regulations regarding health, safety, and welfare, including the Americans with Disabilities Act.

(e) The original license application fee shall be two hundred dollars (\$200.00) for each proposed school location.

(f) The initial fee for a school to offer a Prelicensing or Postlicensing course at any of its locations during the licensing period shall be forty dollars (\$40.00) per Prelicensing or Postlicensing course.

(g) Private real estate schools offering Prelicensing or Postlicensing courses pursuant to Paragraph (a) of this Rule shall be eligible to offer Update courses and continuing education courses.

(h) If a school relocates any location during any licensing period, the school owner shall submit an original application for licensure of that location pursuant to this Rule.

*Authority G.S. 93A-4; 93A-33; 93A-34.*

#### 21 NCAC 58H .0209 ~~PRELICENSING AND~~ POSTLICENSING COURSE ENROLLMENT

~~(a) A school shall not enroll an individual in a Postlicensing course if if:~~

- ~~(1) the first day of the Postlicensing course occurs while the individual is enrolled in a Prelicensing course or if that individual has not passed the license examination course; or~~

~~(b) A school shall not enroll an individual in a Postlicensing course if~~

- ~~(2) the first day of the Postlicensing course occurs while the individual is taking another~~

Postlicensing course at the same school or a different school if such enrollment results in the individual being in class for more than 30 instructional hours in any given seven day period.

*Authority G.S. 93A-4(a1); 93A-33.*

**21 NCAC 58H .0214 EXPIRATION AND RENEWAL OF A SCHOOL APPROVAL OR LICENSE**

(a) All Commission approvals and licenses issued to real estate schools shall expire annually on June 30 following issuance of approval or licensure.

(b) A school shall file an electronic application for renewal of its approval or license within 45 days immediately preceding expiration of approval or licensure on a form available on the Commission's website. The school renewal application form shall include:

- (1) the school name;
- (2) the school number;
- (3) the school director's name;
- (4) the school's mailing address, telephone number, and web address, if applicable;
- (5) all Commission approved courses offered by the school;
- (6) any change in the school's business entity;
- (7) court records of any conviction, guilty plea, or plea of no contest to, a misdemeanor or felony violation of state or federal law by a court of competent jurisdiction against the school owner(s) and school director since the last renewal;
- (8) records pertaining to any disciplinary action taken against the school owner(s) and school director by an occupational licensing board since the last renewal;
- (9) a copy of the current bulletin;
- (10) proof of bond as required in G.S. 93A-36; and
- ~~(11) proof of a current fire inspection; and~~
- ~~(12)~~(11) the school director's signature.

(c) The private school license renewal fee shall be one hundred dollars (\$100.00) for each school location.

(d) The renewal fee for a private real estate school to offer a Prelicensing or Postlicensing course at any of its locations during the licensed period shall be twenty-five dollars (\$25.00) per Prelicensing or Postlicensing course.

(e) If a school approval or license has expired, the school shall submit an application for original approval or licensure.

*Authority G.S. 93A-4; 93A-33; 93A-34(b); 93A-35(b); 93A-36.*

**SECTION .0300 – APPROVED INSTRUCTORS**

**21 NCAC 58H .0302 APPLICATION AND CRITERIA FOR ORIGINAL PRELICENSING, POSTLICENSING, OR UPDATE COURSE INSTRUCTOR APPROVAL**

(a) An individual seeking original instructor approval shall submit an application on a form available on the Commission's

website that shall require the instructor applicant to indicate the course(s) for which he or she is seeking approval and set forth the instructor applicant's:

- (1) legal name, address, email address, and telephone number;
- (2) real estate license number and instructor number, if any, assigned by Commission;
- (3) criminal and occupational licensing history, including any disciplinary actions;
- (4) education background, including specific real estate education;
- (5) experience in the real estate business;
- (6) real estate teaching experience, if any;
- (7) a signed Consent to Service of Process and Pleadings for nonresident applicants; and
- (8) signature.

(b) An instructor applicant shall demonstrate that he or she possesses good reputation and character pursuant to G.S. 93A-34(c)(9) and has:

- (1) a North Carolina real estate broker license that is not on provisional status;
- (2) completed continuing education sufficient to activate a license under 21 NCAC 58A .1702;
- (3) completed 60 semester hours of college-level education at an institution accredited by any college accrediting body recognized by the U.S. Department of Education; ~~and~~
- (4) completed the New Instructor Seminar, prescribed by the Commission, within the previous six months; and
- ~~(4)(5)~~ within the previous seven years has either:
  - (A) two years full-time experience in real estate brokerage with at least one year in North Carolina;
  - (B) three years of instructor experience at a secondary or post-secondary level;
  - (C) real estate Prelicensing or Postlicensing instructor approval in another jurisdiction; or
  - (D) qualifications found to be equivalent by the Commission, including a current North Carolina law license and three years' full time experience in commercial or residential real estate transactions or representation of real estate brokers or firms.

~~(c) Along with their application, an instructor applicant shall submit a digital video recording of themselves teaching a 50 minute block of a single topic in a Prelicensing, Postlicensing, or Update course that demonstrates the ability to teach the subject in a manner consistent with the course materials. The digital video recording shall comply with Rule .0305(c) of this Section.~~

~~(d) The digital video recording requirement described in Paragraph (c) of this Rule shall be waived by the Commission if the instructor applicant has a current:~~

- ~~(1) approval as either a General Update Course, Prelicensing, or Postlicensing instructor; or~~
- ~~(2) Distinguished Real Estate Instructor (DREI) designation that has been awarded to the~~

~~instructor by the Real Estate Educators Association or an equivalent instructor certification.~~

~~(e) Prior to teaching any Prelicensing or Postlicensing course, an approved instructor shall take the Commission's New Pre/Postlicensing Instructor Seminar.~~

(c) In order to complete the New Instructor Seminar, a broker shall:

- (1) attend at least 90 percent of all scheduled hours; and
- (2) demonstrate the ability to teach a 15-minute block of a single Prelicensing topic in a manner consistent with the Commission's Prelicensing Syllabi.

(d) Instructors approved prior to July 1, 2019 shall be exempt from the New Instructor Seminar requirement pursuant to Subparagraph (b)(4) of this Rule.

~~(#)(e)~~ Prior to teaching any Update course, an approved instructor shall take the Commission's annual Update Instructor Seminar for the current license period. The Update Instructor Seminar shall not be used to meet the requirement in Rule .0306(b)(4) of this Section.

Authority G.S. 93A-3(f); 93A-4; 93A-10; 93A-33; 93A-34.

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## CHAPTER 58 – REAL ESTATE COMMISSION

*Notice is hereby given in accordance with G.S. 150B-21.2 that the Real Estate Commission intends to amend the rules cited as 21 NCAC 58A .0105 and .1902.*

**Link to agency website pursuant to G.S. 150B-19.1(c):**  
[www.ncrec.gov](http://www.ncrec.gov)

**Proposed Effective Date:** July 1, 2020

**Public Hearing:**

**Date:** March 13, 2019

**Time:** 9:00 a.m.

**Location:** 1313 Navaho Drive, Raleigh, NC 27609-7460

**Reason for Proposed Action:**

**21 NCAC 58A .0105 – Advertising**

*Amend this Rule to require the name of the firm or sole proprietorship with which the broker or team is affiliated be at least the same size as the broker's name in advertising.*

**21 NCAC 58A .1902 – Postlicensing Education Requirement**

*Amend this Rule to replace 'classroom hour' with 'instructional hour,' to include the new names of the postlicensing courses, and to require provisional brokers to complete all postlicensing courses within 18 months following the date of initial licensure.*

**Comments may be submitted to:** Melissa Vuotto, P.O. Box 17100, Raleigh, NC 27619-7100, email [public.comment@ncrec.gov](mailto:public.comment@ncrec.gov)

**Comment period ends:** April 1, 2019

**Procedure for Subjecting a Proposed Rule to Legislative Review:**

If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-431-3000.

**Fiscal impact (check all that apply).**

- ☐ State funds affected
- ☐ Environmental permitting of DOT affected
- ☐ Analysis submitted to Board of Transportation
- ☐ Local funds affected
- ☐ Substantial economic impact (≥\$1,000,000)
- ☐ Approved by OSBM
- ☒ No fiscal note required by G.S. 150B-21.4 21 NCAC 58A .0105 and .1902

## SUBCHAPTER 58A – REAL ESTATE BROKERS

### SECTION .0100 - GENERAL BROKERAGE

**21 NCAC 58A .0105 ADVERTISING**

(a) Authority to Advertise.

- (1) A broker shall not advertise any brokerage service or the sale, purchase, exchange, rent, or lease of real estate for another or others without the consent of his or her broker-in-charge and without including in the advertisement the name of the firm or sole proprietorship with which the broker is affiliated. In the advertisement, the name of the firm or sole proprietorship with which the broker or team is affiliated, if any, shall be of equal or greater size as the name of the broker or team.
- (2) A broker shall not advertise or display a "for sale" or "for rent" sign on any real estate without the written consent of the owner or the owner's authorized agent.

(b) Blind Ads. A broker shall not advertise the sale, purchase, exchange, rent, or lease of real estate for others in a manner indicating the offer to sell, purchase, exchange, rent, or lease is being made by the broker's principal only. Every such advertisement shall indicate that it is the advertisement of a broker or firm and shall not be confined to publication of only contact information, such as a post office box number, telephone number, street address, internet web address, or e-mail address.

(c) A person licensed as a limited nonresident commercial broker shall comply with the provisions of Rule .1809 of this Subchapter in connection with all advertising concerning or relating to his or her status as a North Carolina broker.

*Authority G.S. 93A-2(a1); 93A-3(c); 93A-9.*

## SECTION .1900 – POST-LICENSING EDUCATION

### 21 NCAC 58A .1902 POSTLICENSING EDUCATION REQUIREMENT

~~(a) The 90 classroom hour postlicensing education program shall consist of three 30 classroom hour courses prescribed by the Commission which may be taken in any sequence. A provisional broker as described in G.S. 93A 4(a1) or G.S. 93A 4.3(d) must satisfactorily complete at least one of the 30 hour courses during each of the first three years following the date of his or her initial licensure as a broker in order to retain his or her eligibility to actively engage in real estate brokerage. Upon completion of all three courses by a provisional broker, the provisional status of the broker's license shall be terminated by the Commission. The three courses shall be devoted to:~~

- ~~(1) real estate brokerage relationships and responsibilities;~~
- ~~(2) real estate contracts and transactions; and~~
- ~~(3) specialized topics, including commercial real estate, rental management, real estate finance, real estate appraisal, real estate development, and real estate regulation.~~

~~(b) If a provisional broker as describe in G.S. 93A 4(a1) or G.S. 93A 4.3(d) fails to complete the required postlicensing education described in Paragraph (a) of this Rule by the end of either the first or second year following the date of his or her initial licensure as a broker, his or her license shall be placed on inactive status. Between the end of the first year after initial licensure and the end of the third year after initial licensure, a provisional broker who is subject of the postlicensing education requirement and who desires to activate a license that is on inactive status shall make up any postlicensing education deficiency as well as satisfy the continuing education requirements for license activation described in Rule .1703 of this Subchapter, satisfy the~~

~~requirement for supervision by a broker in charge described in Rule .0506 of this Subchapter and file with the Commission a request for license activation as described in Rule .0504 of this Subchapter.~~

~~(c) If a provisional broker as described in G.S. 93A 4(a1) or G.S. 93A 4.3(d) fails to complete all three postlicensing courses within three years following the date of his or her initial licensure, his or her license shall be placed on inactive status. In order to activate the license, the provisional broker shall demonstrate completion of all three postlicensing courses within the previous three years, which will terminate the provisional status of the broker's license, and shall satisfy the continuing education requirements for license activation described in Rule .1703 of this Subchapter.~~

(a) The 90-hour Postlicensing education program, prescribed by the Commission, shall consist of the following three 30 instructional hour courses:

- (1) Postlicensing Course 301;
- (2) Postlicensing Course 302; and
- (3) Postlicensing Course 303.

(b) A provisional broker as described in G.S. 93A-4(a1) shall complete all Postlicensing courses pursuant to Paragraph (a) of this Rule within 18 months following the date of initial licensure.

(c) If a provisional broker fails to complete the required Postlicensing courses pursuant to Paragraph (b) of this Rule, the provisional broker's license shall be placed on inactive status.

(d) A provisional broker seeking to activate a license that was placed on inactive status pursuant to Paragraph (c) of this Rule shall:

- (1) complete all three Postlicensing Courses within the previous two years described in Paragraph (a) of this Rule;
- (2) satisfy the continuing education requirements for license activation described in Rule .1703 of this Subchapter; and
- (3) file an activation form with the Commission pursuant to Rule .0504 of this Subchapter.

*Authority G.S. 93A-4; 93A-4(a1).*



*This Section contains information for the meeting of the Rules Review Commission December 13, 2018 and January 17, 2019 at 1711 New Hope Church Road, RRC Commission Room, Raleigh, NC. Anyone wishing to submit written comment on any rule before the Commission should submit those comments to the RRC staff, the agency, and the individual Commissioners. Specific instructions and addresses may be obtained from the Rules Review Commission at 919-431-3000. Anyone wishing to address the Commission should notify the RRC staff and the agency no later than 5:00 p.m. of the 2<sup>nd</sup> business day before the meeting. Please refer to RRC rules codified in 26 NCAC 05.*

**RULES REVIEW COMMISSION MEMBERS****Appointed by Senate**

Jeff Hyde (1<sup>st</sup> Vice Chair)  
Robert A. Bryan, Jr.  
Margaret Currin  
Jeffrey A. Poley  
Brian P. LiVecchi

**Appointed by House**

Garth Dunklin (Chair)  
Andrew P. Atkins  
Anna Baird Choi  
Paul Powell  
Jeanette Doran (2<sup>nd</sup> Vice Chair)

**COMMISSION COUNSEL**

Amber Cronk May (919)431-3074  
Amanda Reeder (919)431-3079  
Jason Thomas (919)431-3081

**RULES REVIEW COMMISSION MEETING DATES**

February 21, 2019      March 21, 2019  
April 18, 2019      May 16, 2019

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**RULES REVIEW COMMISSION MEETING  
MINUTES*****December 13, 2018***

The Rules Review Commission met on Thursday, December 13, 2018, in the Commission Room at 1711 New Hope Church Road, Raleigh, North Carolina. Commissioners present were: Andrew Atkins, Bobby Bryan, Anna Baird Choi, Margaret Currin, Jeanette Doran, Garth Dunklin, Jeff Hyde, Brian LiVecchi, Jeff Poley, and Paul Powell.

Staff members present were Commission Counsels Amber Cronk May, Amanda Reeder, and Jason Thomas; and Julie Brincefield, Alex Burgos, and Dana McGhee.

The meeting was called to order at 9:03 a.m. with Chairman Dunklin presiding.

Chairman Dunklin read the notice required by G.S. 163A-159 and reminded the Commission members that they have a duty to avoid conflicts of interest and the appearances of conflicts of interest.

Chairman Dunklin read into the record the following statement of economic interest for:

Robert Angus Bryan, Jr. and Margaret Person Currin, which stated there was no actual or likely conflict of interest. Andrew Perry Atkins, which stated there was no actual conflict of interest, but found the potential for a conflict of interest. The potential conflict identified does not prohibit service on this entity.

Mr. Atkins fills the role of a public member on the Commission. He is an Associate Attorney with the law firm of Smith Anderson Blount Dorsett Mitchell & Jernigan, LLP. He has disclosed that the law firm provides representation to various state agencies, boards and commissions. As such, Mr. Atkins has the potential for a conflict of interest and should exercise appropriate caution in the performance of his public duties should issues regarding the State agency, board or commission clients of the law firm come before the Commission for official action.

Anna Baird Choi, which stated there was no actual conflict of interest, but found the potential for a conflict of interest. The potential conflict identified does not prohibit service on this entity.

Ms. Choi fills the role of a public member on the Commission. She is an Attorney with the law firm of Nichols, Choi & Lee, PLLC. She has disclosed that the law firm provides representation to several occupational licensing boards. As such, Ms. Choi has the potential for a conflict of interest and should exercise appropriate caution in the performance of her public duties should issues regarding the occupational licensing board clients of the law firm come before the Commission for official action.

The Chairman notified the Commissioners that the following items on the agenda would be taken up out of order at the end of the agenda: the permanent rules for the Industrial Commission and the report for the Medical Care Commission.

### **APPROVAL OF MINUTES**

Chairman Dunklin asked for any discussion, comments, or corrections concerning the minutes of the November 15, 2018 meeting and the November 26, 2018 special meeting. There were none and the minutes were approved as distributed.

### **FOLLOW UP MATTERS**

#### **Board of Elections and Ethics Enforcement**

The agency is addressing the objections for 08 NCAC 02 .0112, .0113; 03 .0101, .0102, .0103, .0104, .0105, .0106, .0201, .0202, .0301, .0302; 04 .0302, .0304, .0305, .0306, .0307; 06B .0103, .0104, .0105; 08 .0104; 09 .0106, .0107, .0108, .0109; 10B .0101, .0102, .0103, .0104, .0105, .0106, .0107 -No action was required by the Commission.

Prior to the review of the rules from the Board of Elections and Ethics Enforcement, Commissioner Doran recused herself and did not participate in any discussion concerning the rules because she has a matter pending before the Board.

#### **DHHS/Division of Medical Assistance**

10A NCAC 22F .0301 - No action was required by the Commission, as the rewritten rule was approved at the November 15, 2018 meeting, but the changes were determined to be substantial pursuant to G.S. 150B-21.12(c). The agency is required to republish the rule in accordance with the procedure set forth in G.S. 150B-21.1(a3) and (b).

#### **Commission for the Blind**

10A NCAC 63C .0203, .0204, .0403, and .0601 - No action was required by the Commission.

#### **Criminal Justice Education and Training Standards Commission**

12 NCAC 09G .0103 was unanimously approved.

#### **Department of Public Safety**

14B NCAC 01C .0401, .0402; 07A .0104, .0105, .0106, .0107, .0108, .0109, .0110, .0111, .0112, .0113, .0114, .0115, .0116, .0118, and .0119 – All rules were unanimously approved.

#### **Board of Nursing**

21 NCAC 36 .0109, .0112, .0113, .0120, .0201, .0202, .0203, .0207, .0208, .0211, .0213, .0217, .0218, .0219, .0220, .0221, .0223, .0224, .0225, .0226, .0228, .0232, .0233, .0302, .0303, .0309, .0317, .0318, .0320, .0321, .0322, .0323, .0401, .0402, .0403, .0404, .0405, .0406, .0502, .0503, .0504, .0505, .0506, .0507, .0601, .0602, .0603, .0604, .0605, .0801, .0802, .0803, .0804, .0805, .0806, .0807, .0808, .0809, .0810, .0811, .0812, .0813, .0814, and .0815 - All rules were unanimously approved.

Prior to the review of the rules from the Board of Nursing, Commissioner Choi recused herself and did not participate in any discussion or vote concerning the rules because her law firm provides legal services to the Board, including questions on rulemaking from time to time.

### **LOG OF FILINGS (PERMANENT RULES)**

#### *Pre-Reviewed Rules*

#### **Medical Care Commission**

All rules were unanimously approved.

Prior to the review of the rules from the Medical Care Commission, Commissioner Poley recused himself and did not participate in any discussion or vote concerning the rules because the Medical Care Commission is a client of his law firm.

#### **Department of Public Safety**

All rules were unanimously approved.

**Alcoholic Beverage Control Commission**

All rules were unanimously approved.

**Environmental Management Commission 15A NCAC 02K**

15A NCAC 02K .0224 was unanimously approved.

**Environmental Management Commission 15A NCAC 13B**

The Commission extended the period of review for these Rules in accordance with G.S. 150B-21.10. They did so in response to a request from the Environmental Management Commission to extend the period in order to allow the agency to make technical changes and submit the rewritten rules at a later meeting.

**Commission for Public Health**

15A NCAC 18C .1305 was unanimously approved.

**Board of Dental Examiners**

All rules were unanimously approved.

*Non Pre-Reviewed Rules*

**North Carolina Housing Finance Agency 04 NCAC 19S**

All rules were unanimously approved.

**Child Care Commission**

All rules were unanimously approved.

**Commission for Mental Health**

10A NCAC 26F .0106 was unanimously approved.

**Department of Insurance**

All rules were unanimously approved.

**Industrial Commission**

All rules in 11 NCAC 23A and 23H were approved.

Rules 11 NCAC 23B .0206 and .0207 were approved with Commissioners Atkins, Bryan, Choi, Currin, Doran, and LiVecchi, voting in favor of the rules; Commissioners Dunklin, Hyde, and Powell voted against. Commissioner Poley was not present for the discussion or vote on these Rules.

Rule 11 NCAC 23B .0503 was unanimously approved contingent upon receiving technical changes to remove "government entities" from the rule. The rule with the technical change was received after the meeting.

Margaret McDonald, Assistant General Counsel and DPS Rulemaking Coordinator, addressed the Commission.

Jerrel Jordan, with DPS, addressed the Commission.

Theresa Stephenson, Senior Deputy General Counsel with DPS, addressed the Commission.

Stephanie Brennan, with the Attorney General's Office, addressed the Commission on behalf of the NC DOJ.

Kenneth Lassiter, Director of Prisons for DPS, addressed the Commission.

Ashley Snyder, the rulemaking coordinator with the agency, addressed the Commission.

Summit Gupta, the Chief Deputy Commissioner with the agency, addressed the Commission.

The Commission received over 10 letters of objection in accordance with G.S. 150B-21.3(b2), requesting a delayed effective date and legislative review of Rules 11 NCAC 23B .0206, .0207, and .0503.

**Environmental Management Commission 15A NCAC 02B**

15A NCAC 02B .0304 was unanimously approved.

**North Carolina Housing Finance Agency 24 NCAC 01N**

24 NCAC 01N .0204 was unanimously approved.

**EXISTING RULES REVIEW**

**Department of Environmental Quality**

01 NCAC 41A – The Commission unanimously approved the report as submitted by the agency.

01 NCAC 41C – The Commission unanimously approved the report as submitted by the agency.

01 NCAC 41D – The Commission unanimously approved the report as submitted by the agency.

01 NCAC 41E – The Commission unanimously approved the report as submitted by the agency.

**Medical Care Commission**

10A NCAC 13G -The Commission unanimously approved the report as submitted by the agency, with the following exceptions for rules that received public comment that were deemed to have merit as defined by G.S. 150B-21.3A(c)(2): .0317 and .0318. The RRC designated those rules as “necessary with substantive public interest”, with Commissioner Atkins voting against.

Steven Lewis, with Division of Health Service Regulation, addressed the Commission.

Prior to the review of the report from the Medical Care Commission, Commissioner Poley recused himself and did not participate in any discussion or vote concerning the report because the Medical Care Commission is a client of his law firm.

**Commission for Public Health**

10A NCAC 41C – The Commission unanimously approved the report as submitted by the agency.

**Department of Health and Human Services**

15A NCAC 01O - The Commission unanimously approved the report as submitted by the agency.

**Environmental Management Commission**

15A NCAC 02G – The Commission unanimously approved the report as submitted by the agency.

15A NCAC 02I – The Commission unanimously approved the report as submitted by the agency.

15A NCAC 02J – The Commission unanimously approved the report as submitted by the agency.

**Wildlife Resources Commission**

15A NCAC 10A – The Commission unanimously approved the report as submitted by the agency.

15A NCAC 10D – The Commission unanimously approved the report as submitted by the agency.

15A NCAC 10E – The Commission unanimously approved the report as submitted by the agency.

15A NCAC 10G – The Commission unanimously approved the report as submitted by the agency.

15A NCAC 10I – The Commission unanimously approved the report as submitted by the agency.

15A NCAC 10J – The Commission unanimously approved the report as submitted by the agency.

15A NCAC 10K – The Commission unanimously approved the report as submitted by the agency.

**Pesticide Board**

02 NCAC 09L – As reflected in the attached letter, the Commission voted to schedule readoption of the rules no later than April 30, 2020 pursuant to G.S. 150B-21.3A(d)(2).

**Structural Pest Control Committee**

02 NCAC 34 – As reflected in the attached letter, the Commission voted to schedule readoption of the rules no later than April 30, 2020 pursuant to G.S. 150B-21.3A(d)(2).

The Chair called the meeting into a brief recess at 11:16 a.m. The meeting resumed at 11:30 a.m.

**COMMISSION BUSINESS**

At 11:57 a.m., upon a motion and second, and unanimous vote, the Commission ended the public meeting of the Rules Review Commission and called the meeting into closed session pursuant to G.S. 143-318.11(a)(3) to discuss the lawsuit filed by the Department of Health and Human Services and the Commission for Public Health against the Rules Review Commission.

The Commission came out of closed session and reconvened at 12:32 p.m.

The Commission authorized litigation counsel to negotiate a consent order in the matter of DHHS/CPH v. RRC consistent with the action taken at the Commission's special called meeting on November 26, 2018, and further authorized the Chair to give final approval to the consent order on the Commission's behalf.

The meeting adjourned at 12:33 p.m.

The next regularly scheduled meeting of the Commission is Thursday, January 17<sup>th</sup>, 2019 at 9:00 a.m.

\_\_\_\_\_  
Alexander Burgos, Paralegal

\_\_\_\_\_  
Minutes approved by the Rules Review Commission:  
Garth Dunklin, Chair

**December 13, 2018**

Rules Review Commission  
Meeting  
Please Print Legibly

Name	Agency
Beverly Spero	NC DHSR
Kenneth Asster	NC DPS
Charmique Williams	CJETS
Meredith Henderson	NCIC
Ed Dorman	NC DHHS
Angela Ellis	NC BON
Amy Fitzhugh	NC BON
Carmie Hollis	OSBM
Eddie Thomas	DPS
Tichina Hauer	NC DHSR
Walter Redgar	ABC Commission
Casey Howard	NCHFA
Virginia Michaels	NC DHHS, DPH
Ann Anderson	OSBM
Meagan Hornold	OSBM
Jay Fick	DWR
Anca Grozar	OSBM
Charlton Allen	NCIC
John Green	NC DOJ
Doug Barriek	DHSR - ACLS

**December 13, 2018**

Rules Review Commission  
Meeting  
Please Print Legibly

Name	Agency
Alison Neely	NCDOJ
Theresa Stephenson	NC DPS
Todd Dolbrige	NC DPH
Angie Edwards	NC DPH
Jennifer Everett	DEQ
Nadine Pfeiffer	DHHS - DHSR
Marjorie Acker	DHHS - DHSR
Ashley Snyder	IL
Brian Liebman	IL
Hannah Xenigan	NC DOT
Stephanie Brennan	NCDOJ
Whitney Belch	NCDOJ
Margaret McDermott	NC DPS
Erica Romain	NC DPS
John H. Schaeffer	NCDOJ
Annie Harvey	NC DPS
W. Denise Baker	NC DHHS DMH/DD/SAS
Alexandra Gruber	NCDOJ
Kristi Snuggs	DCDEE
Opie King	DCDEE
Steve C. Lewis	DHSR



**STATE OF NORTH CAROLINA  
OFFICE OF ADMINISTRATIVE HEARINGS**

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Raleigh, NC 27699-6700

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1711 New Hope Church Rd  
Raleigh, NC 27609-6285

December 13, 2018

Christina L. Waggett, Rulemaking Coordinator  
Pesticide Board  
1001 Mail Service Center  
Raleigh, North Carolina 27699-1001

Re: Readoption pursuant to G.S. 150B-21.3A(c)(2)g of **02 NCAC 09L**

Dear Ms. Waggett:

Attached to this letter are the rules subject to readoption pursuant to the periodic review and expiration of existing rules as set forth in G.S. 150B-21.3A(c)(2)g. After consultation with your agency, this set of rules was discussed at the December 13, 2018 Rules Review Commission meeting regarding the scheduling of these rules for readoption. Pursuant to G.S. 150B-21.3A(d)(2), the rules identified on the attached printout shall be readopted by the agency no later than April 30, 2020.

If you have any questions regarding the Commission's action, please let me know.

Sincerely,

A handwritten signature in black ink, appearing to read "Amber May", is written over a faint, larger signature.

Amber May  
Commission Counsel

Administration  
919/431-3000  
fax: 919/431-3100

Rules Division  
919/431-3000  
fax: 919/431-3104

Judges and  
Assistants  
919/431-3000  
fax: 919/431-3100

Clerk's Office  
919/431-3000  
fax: 919/431-3100

Rules Review  
Commission  
919/431-3000  
fax: 919/431-3104

Civil Rights  
Division  
919/431-3036  
fax: 919/431-3103

An Equal Employment Opportunity Employer



**RRC DETERMINATION  
PERIODIC RULE REVIEW  
July 01, 2018 through June 30, 2019**

**Pesticide Board  
Total: 74**

**RRC Determination: Necessary with substantive public interest**

<b>Rule</b>	<b>Determination</b>	<b>APO Review Date</b>
02 <u>NCAC 09L .0101</u>	Necessary with substantive public interest	November 22, 2018
02 <u>NCAC 09L .0102</u>	Necessary with substantive public interest	November 22, 2018
02 <u>NCAC 09L .0103</u>	Necessary with substantive public interest	November 22, 2018
02 <u>NCAC 09L .0308</u>	Necessary with substantive public interest	November 22, 2018
02 <u>NCAC 09L .0310</u>	Necessary with substantive public interest	November 22, 2018
02 <u>NCAC 09L .0317</u>	Necessary with substantive public interest	November 22, 2018
02 <u>NCAC 09L .0318</u>	Necessary with substantive public interest	November 22, 2018
02 <u>NCAC 09L .0402</u>	Necessary with substantive public interest	November 22, 2018
02 <u>NCAC 09L .0502</u>	Necessary with substantive public interest	November 22, 2018
02 <u>NCAC 09L .0503</u>	Necessary with substantive public interest	November 22, 2018
02 <u>NCAC 09L .0504</u>	Necessary with substantive public interest	November 22, 2018
02 <u>NCAC 09L .0505</u>	Necessary with substantive public interest	November 22, 2018
02 <u>NCAC 09L .0509</u>	Necessary with substantive public interest	November 22, 2018
02 <u>NCAC 09L .0515</u>	Necessary with substantive public interest	November 22, 2018
02 <u>NCAC 09L .0516</u>	Necessary with substantive public interest	November 22, 2018
02 <u>NCAC 09L .0519</u>	Necessary with substantive public interest	November 22, 2018
02 <u>NCAC 09L .0520</u>	Necessary with substantive public interest	November 22, 2018
02 <u>NCAC 09L .0522</u>	Necessary with substantive public interest	November 22, 2018
02 <u>NCAC 09L .0523</u>	Necessary with substantive public interest	November 22, 2018
02 <u>NCAC 09L .0524</u>	Necessary with substantive public interest	November 22, 2018
02 <u>NCAC 09L .0525</u>	Necessary with substantive public interest	November 22, 2018
02 <u>NCAC 09L .0526</u>	Necessary with substantive public interest	November 22, 2018
02 <u>NCAC 09L .0527</u>	Necessary with substantive public interest	November 22, 2018
02 <u>NCAC 09L .0529</u>	Necessary with substantive public interest	November 22, 2018
02 <u>NCAC 09L .0602</u>	Necessary with substantive public interest	November 22, 2018
02 <u>NCAC 09L .0603</u>	Necessary with substantive public interest	November 22, 2018
02 <u>NCAC 09L .0701</u>	Necessary with substantive public interest	November 22, 2018
02 <u>NCAC 09L .0702</u>	Necessary with substantive public interest	November 22, 2018
02 <u>NCAC 09L .0703</u>	Necessary with substantive public interest	November 22, 2018
02 <u>NCAC 09L .0705</u>	Necessary with substantive public interest	November 22, 2018
02 <u>NCAC 09L .0706</u>	Necessary with substantive public interest	November 22, 2018
02 <u>NCAC 09L .0707</u>	Necessary with substantive public interest	November 22, 2018
02 <u>NCAC 09L .0810</u>	Necessary with substantive public interest	November 22, 2018
02 <u>NCAC 09L .1001</u>	Necessary with substantive public interest	November 22, 2018
02 <u>NCAC 09L .1002</u>	Necessary with substantive public interest	November 22, 2018

<u>02</u>	<u>NCAC 09L .1003</u>	Necessary with substantive public interest	November 22, 2018
<u>02</u>	<u>NCAC 09L .1005</u>	Necessary with substantive public interest	November 22, 2018
<u>02</u>	<u>NCAC 09L .1006</u>	Necessary with substantive public interest	November 22, 2018
<u>02</u>	<u>NCAC 09L .1009</u>	Necessary with substantive public interest	November 22, 2018
<u>02</u>	<u>NCAC 09L .1102</u>	Necessary with substantive public interest	November 22, 2018
<u>02</u>	<u>NCAC 09L .1103</u>	Necessary with substantive public interest	November 22, 2018
<u>02</u>	<u>NCAC 09L .1104</u>	Necessary with substantive public interest	November 22, 2018
<u>02</u>	<u>NCAC 09L .1105</u>	Necessary with substantive public interest	November 22, 2018
<u>02</u>	<u>NCAC 09L .1107</u>	Necessary with substantive public interest	November 22, 2018
<u>02</u>	<u>NCAC 09L .1108</u>	Necessary with substantive public interest	November 22, 2018
<u>02</u>	<u>NCAC 09L .1109</u>	Necessary with substantive public interest	November 22, 2018
<u>02</u>	<u>NCAC 09L .1111</u>	Necessary with substantive public interest	November 22, 2018
<u>02</u>	<u>NCAC 09L .1201</u>	Necessary with substantive public interest	November 22, 2018
<u>02</u>	<u>NCAC 09L .1202</u>	Necessary with substantive public interest	November 22, 2018
<u>02</u>	<u>NCAC 09L .1302</u>	Necessary with substantive public interest	November 22, 2018
<u>02</u>	<u>NCAC 09L .1303</u>	Necessary with substantive public interest	November 22, 2018
<u>02</u>	<u>NCAC 09L .1305</u>	Necessary with substantive public interest	November 22, 2018
<u>02</u>	<u>NCAC 09L .1306</u>	Necessary with substantive public interest	November 22, 2018
<u>02</u>	<u>NCAC 09L .1401</u>	Necessary with substantive public interest	November 22, 2018
<u>02</u>	<u>NCAC 09L .1402</u>	Necessary with substantive public interest	November 22, 2018
<u>02</u>	<u>NCAC 09L .1404</u>	Necessary with substantive public interest	November 22, 2018
<u>02</u>	<u>NCAC 09L .1805</u>	Necessary with substantive public interest	November 22, 2018
<u>02</u>	<u>NCAC 09L .1806</u>	Necessary with substantive public interest	November 22, 2018
<u>02</u>	<u>NCAC 09L .1901</u>	Necessary with substantive public interest	November 22, 2018
<u>02</u>	<u>NCAC 09L .1902</u>	Necessary with substantive public interest	November 22, 2018
<u>02</u>	<u>NCAC 09L .1905</u>	Necessary with substantive public interest	November 22, 2018
<u>02</u>	<u>NCAC 09L .1906</u>	Necessary with substantive public interest	November 22, 2018
<u>02</u>	<u>NCAC 09L .1907</u>	Necessary with substantive public interest	November 22, 2018
<u>02</u>	<u>NCAC 09L .1908</u>	Necessary with substantive public interest	November 22, 2018
<u>02</u>	<u>NCAC 09L .1909</u>	Necessary with substantive public interest	November 22, 2018
<u>02</u>	<u>NCAC 09L .1913</u>	Necessary with substantive public interest	November 22, 2018
<u>02</u>	<u>NCAC 09L .1914</u>	Necessary with substantive public interest	November 22, 2018
<u>02</u>	<u>NCAC 09L .2001</u>	Necessary with substantive public interest	November 22, 2018
<u>02</u>	<u>NCAC 09L .2002</u>	Necessary with substantive public interest	November 22, 2018
<u>02</u>	<u>NCAC 09L .2003</u>	Necessary with substantive public interest	November 22, 2018
<u>02</u>	<u>NCAC 09L .2004</u>	Necessary with substantive public interest	November 22, 2018
<u>02</u>	<u>NCAC 09L .2201</u>	Necessary with substantive public interest	November 22, 2018
<u>02</u>	<u>NCAC 09L .2202</u>	Necessary with substantive public interest	November 22, 2018
<u>02</u>	<u>NCAC 09L .2203</u>	Necessary with substantive public interest	November 22, 2018



STATE OF NORTH CAROLINA  
OFFICE OF ADMINISTRATIVE HEARINGS

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1711 New Hope Church Rd  
Raleigh, NC 27609-6285

December 13, 2018

Christina L. Waggett, Rulemaking Coordinator  
Structural Pest Control Committee  
1001 Mail Service Center  
Raleigh, North Carolina 27699-1001

Re: Readoption pursuant to G.S. 150B-21.3A(c)(2)g of 02 NCAC 34

Dear Ms. Waggett:

Attached to this letter are the rules subject to readoption pursuant to the periodic review and expiration of existing rules as set forth in G.S. 150B-21.3A(c)(2)g. After consultation with your agency, this set of rules was discussed at the December 13, 2018 Rules Review Commission meeting regarding the scheduling of these rules for readoption. Pursuant to G.S. 150B-21.3A(d)(2), the rules identified on the attached printout shall be readopted by the agency no later than April 30, 2020.

If you have any questions regarding the Commission's action, please let me know.

Sincerely,

A handwritten signature in black ink, appearing to read "Amber May".

Amber May  
Commission Counsel

Administration  
919/431-3000  
fax: 919/431-3100

Rules Division  
919/431-3000  
fax: 919/431-3104

Judges and  
Assistants  
919/431-3000  
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Clerk's Office  
919/431-3000  
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Rules Review  
Commission  
919/431-3000  
fax: 919/431-3104

Civil Rights  
Division  
919/431-3036  
fax: 919/431-3103

An Equal Employment Opportunity Employer

**RRC DETERMINATION  
PERIODIC RULE REVIEW  
July 01, 2018 through June 30, 2019  
Structural Pest Control Committee  
Total: 13**

**RRC Determination: Necessary with substantive public interest**

<b>Rule</b>	<b>Determination</b>	<b>APO Review Date</b>
02 <u>NCAC 34 .0302</u>	Necessary with substantive public interest	November 22, 2018
02 <u>NCAC 34 .0309</u>	Necessary with substantive public interest	November 22, 2018
02 <u>NCAC 34 .0328</u>	Necessary with substantive public interest	November 22, 2018
02 <u>NCAC 34 .0331</u>	Necessary with substantive public interest	November 22, 2018
02 <u>NCAC 34 .0501</u>	Necessary with substantive public interest	November 22, 2018
02 <u>NCAC 34 .0502</u>	Necessary with substantive public interest	November 22, 2018
02 <u>NCAC 34 .0503</u>	Necessary with substantive public interest	November 22, 2018
02 <u>NCAC 34 .0504</u>	Necessary with substantive public interest	November 22, 2018
02 <u>NCAC 34 .0505</u>	Necessary with substantive public interest	November 22, 2018
02 <u>NCAC 34 .0506</u>	Necessary with substantive public interest	November 22, 2018
02 <u>NCAC 34 .0602</u>	Necessary with substantive public interest	November 22, 2018
02 <u>NCAC 34 .0703</u>	Necessary with substantive public interest	November 22, 2018
02 <u>NCAC 34 .1206</u>	Necessary with substantive public interest	November 22, 2018

**LIST OF APPROVED PERMANENT RULES**

**December 13, 2018 Meeting**

**HOUSING FINANCE AGENCY**

<u>Overview and Purpose</u>	04 NCAC 19S .0101
<u>Definitions</u>	04 NCAC 19S .0102
<u>Waiver</u>	04 NCAC 19S .0103
<u>Eligible Applicants</u>	04 NCAC 19S .0104
<u>Amendments Adopted by Reference</u>	04 NCAC 19S .0105
<u>Acts and Regulations Adopted by Reference</u>	04 NCAC 19S .0106
<u>Eligible Activities and Costs</u>	04 NCAC 19S .0201
<u>Prohibited Costs</u>	04 NCAC 19S .0202
<u>Participation Threshold Amount</u>	04 NCAC 19S .0301
<u>Home Program Funding Distribution</u>	04 NCAC 19S .0401
<u>Size and Use of Home Awards Made to Recipients</u>	04 NCAC 19S .0402
<u>Program Category Allocation</u>	04 NCAC 19S .0403
<u>General Application Requirements</u>	04 NCAC 19S .0404
<u>Definitions</u>	04 NCAC 19S .0501
<u>Eligibility Requirements</u>	04 NCAC 19S .0502
<u>Selection Criteria</u>	04 NCAC 19S .0503
<u>Definition</u>	04 NCAC 19S .0601
<u>Eligibility Requirement</u>	04 NCAC 19S .0602
<u>Selection Criteria</u>	04 NCAC 19S .0603
<u>Definition</u>	04 NCAC 19S .0701
<u>Eligibility Requirements</u>	04 NCAC 19S .0702
<u>Selection Criteria</u>	04 NCAC 19S .0703
<u>Preliminary Awards</u>	04 NCAC 19S .0704
<u>Equal Opportunity and Fair Housing</u>	04 NCAC 19S .1001
<u>Affirmative Marketing</u>	04 NCAC 19S .1002
<u>Environmental Review</u>	04 NCAC 19S .1003
<u>Displacement, Relocation, and Acquisition</u>	04 NCAC 19S .1004
<u>Labor Standards</u>	04 NCAC 19S .1005
<u>Lead-Based Paint</u>	04 NCAC 19S .1006
<u>Conflict of Interest</u>	04 NCAC 19S .1007
<u>National Flood Insurance Program</u>	04 NCAC 19S .1008
<u>Clearinghouse Review</u>	04 NCAC 19S .1009
<u>Grant Agreement</u>	04 NCAC 19S .1101
<u>Method of Administration</u>	04 NCAC 19S .1102
<u>Audit</u>	04 NCAC 19S .1103
<u>Closeout</u>	04 NCAC 19S .1104
<u>Recordkeeping</u>	04 NCAC 19S .1105
<u>Performance Reports</u>	04 NCAC 19S .1106
<u>Performance Reviews</u>	04 NCAC 19S .1107
<u>Corrective and Remedial Actions</u>	04 NCAC 19S .1108
<u>Administrative Hearings and Sanctions</u>	04 NCAC 19S .1109
<u>Program Amendments</u>	04 NCAC 19S .1110

**CHILD CARE COMMISSION**

<u>Administrative Policies</u>	10A NCAC 09	.0513
<u>Operational and Personnel Policies</u>	10A NCAC 09	.0514
<u>Parent Participation</u>	10A NCAC 09	.0515
<u>Night Care</u>	10A NCAC 09	.0516
<u>New Staff Orientation</u>	10A NCAC 09	.1101
<u>Operational Policies</u>	10A NCAC 09	.1715
<u>Additional Caregiver and Substitute Provider Qualifications</u>	10A NCAC 09	.1729
<u>Scope</u>	10A NCAC 09	.2701
<u>Definitions</u>	10A NCAC 09	.2702
<u>Criminal History Record Check Requirements for Child Care...</u>	10A NCAC 09	.2703
<u>Criminal History Record Check Requirements for Nonlicense...</u>	10A NCAC 09	.2704
<u>Scope</u>	10A NCAC 09	.2801
<u>Application for a Two through Five Star Rated License</u>	10A NCAC 09	.2802
<u>Caregiving Activities for Preschool-Aged Children</u>	10A NCAC 09	.2806
<u>Enhanced Space Requirements</u>	10A NCAC 09	.2809
<u>Enhanced Program Standards for Child Care Centers</u>	10A NCAC 09	.2817
<u>Enhanced Staff/Child Ratios for a Rated License for Child...</u>	10A NCAC 09	.2818
<u>Enhanced Education Standards for On-site Administrators f...</u>	10A NCAC 09	.2819
<u>Enhanced Education Standards for Lead Teachers for a Rate...</u>	10A NCAC 09	.2820
<u>Enhanced Education Standards for Teachers for Rated Licen...</u>	10A NCAC 09	.2821
<u>Enhanced Education Standards for Program Coordinators for...</u>	10A NCAC 09	.2822
<u>Enhanced Education Standards for Group Leaders and Assist...</u>	10A NCAC 09	.2823
<u>Enhanced Education Standards for a Rated License for Admi...</u>	10A NCAC 09	.2824
<u>Enhanced Education Standards for Program Coordinators for...</u>	10A NCAC 09	.2825
<u>Education Standards for Group Leaders and Assistant Group...</u>	10A NCAC 09	.2826
<u>Enhanced Education Standards for Operators for a Rated Li...</u>	10A NCAC 09	.2827
<u>Enhanced Program Standards for a Rated License for Family...</u>	10A NCAC 09	.2828
<u>Quality Points Options</u>	10A NCAC 09	.2829
<u>Maintaining the Star Rating</u>	10A NCAC 09	.2830
<u>How an Operator May Request or Appeal A Change in Rating</u>	10A NCAC 09	.2831

**MEDICAL CARE COMMISSION**

<u>Definitions</u>	10A NCAC 14A	.0301
<u>General</u>	10A NCAC 14A	.0302
<u>Initiating a Hearing</u>	10A NCAC 14A	.0303

**HHS - MENTAL HEALTH, DD/SAS, DIVISION OF**

<u>Schedule V</u>	10A NCAC 26F	.0106
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**INSURANCE, DEPARTMENT OF**

<u>Definitions</u>	11 NCAC 07	.0401
<u>Proof of Insurance Coverage</u>	11 NCAC 07	.0402

**INDUSTRIAL COMMISSION**

<u>Contact Information</u>	11 NCAC 23A	.0109
<u>Compromise Settlement Agreements</u>	11 NCAC 23A	.0502
<u>Appointment of Guardian Ad Litem</u>	11 NCAC 23A	.0604

<u>Motions Practice</u>	11 NCAC 23A .0609
<u>Attorneys Retained for Proceedings</u>	11 NCAC 23A .0617
<u>Foreign Language and Sign Language Interpreters</u>	11 NCAC 23A .0619
<u>Written Communications with the Commission</u>	11 NCAC 23A .0620
<u>Review by the Full Commission</u>	11 NCAC 23A .0701
<u>Review of Administrative Decisions</u>	11 NCAC 23A .0702
<u>Waiver of Rules</u>	11 NCAC 23A .0801
<u>Hearings</u>	11 NCAC 23B .0206
<u>Hearings of Claims by Prison Inmates</u>	11 NCAC 23B .0207
<u>Sanctions</u>	11 NCAC 23B .0503
<u>Determination of Claims by the Commission</u>	11 NCAC 23H .0201
<u>Hearings Before the Commission</u>	11 NCAC 23H .0202

**CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS COMMISSION**

<u>Rule-making and Administrative Hearing Procedures</u>	12 NCAC 09G .0103
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**PUBLIC SAFETY, DEPARTMENT OF**

<u>Agreement to Pay Costs</u>	14B NCAC 01C .0401
<u>Statement of Costs</u>	14B NCAC 01C .0402
<u>Notice Of Availability Of Funds</u>	14B NCAC 05 .0201
<u>Consistency with State or Federal Grant Programs</u>	14B NCAC 05 .0202
<u>Request for Preapplication Forms</u>	14B NCAC 05 .0203
<u>Grant Preapplication Form</u>	14B NCAC 05 .0204
<u>Preapplication Submission Procedures</u>	14B NCAC 05 .0205
<u>Incomplete Preapplications</u>	14B NCAC 05 .0206
<u>Review of Preapplications</u>	14B NCAC 05 .0207
<u>Notification to Preapplications</u>	14B NCAC 05 .0208
<u>Application Form and Requirements</u>	14B NCAC 05 .0301
<u>Application Submission Procedures</u>	14B NCAC 05 .0302
<u>Application Due Date</u>	14B NCAC 05 .0303
<u>Grant Application Process</u>	14B NCAC 05 .0304
<u>Grant Period</u>	14B NCAC 05 .0305
<u>Time Limitation on Federal Funding</u>	14B NCAC 05 .0306
<u>Grant Award Contracts</u>	14B NCAC 05 .0307
<u>Continuation Funds</u>	14B NCAC 05 .0310
<u>Adjustments to Grants</u>	14B NCAC 05 .0311
<u>Grant Termination or Suspension</u>	14B NCAC 05 .0401
<u>Loss of Grantee Eligibility</u>	14B NCAC 05 .0402
<u>Appeal</u>	14B NCAC 05 .0501
<u>Vehicle Removal Procedures</u>	14B NCAC 07A .0104
<u>Securing Vehicles When Operator Is Arrested</u>	14B NCAC 07A .0105
<u>Vehicle Transported and Stored over Objection of Owner</u>	14B NCAC 07A .0106
<u>Parking Vehicles off the Roadway</u>	14B NCAC 07A .0107
<u>Transporting and Storing Vehicles</u>	14B NCAC 07A .0108
<u>Notification</u>	14B NCAC 07A .0109
<u>Release of Vehicles</u>	14B NCAC 07A .0110
<u>Vehicle Inventory</u>	14B NCAC 07A .0111
<u>Reimbursement of Wrecker Operators</u>	14B NCAC 07A .0112

<u>Financial Interest</u>	14B NCAC 07A .0113
<u>Impartial Use of Services</u>	14B NCAC 07A .0114
<u>Rotation, Zone, Contract, and Deviation from System</u>	14B NCAC 07A .0115
<u>Rotation Wrecker Service Regulations</u>	14B NCAC 07A .0116
<u>Sanctions for Violations</u>	14B NCAC 07A .0118
<u>Hearing Procedures</u>	14B NCAC 07A .0119

#### **ALCOHOLIC BEVERAGE CONTROL COMMISSION**

<u>Definitions</u>	14B NCAC 15A .2301
<u>Competitions</u>	14B NCAC 15A .2302
<u>Exhibitions</u>	14B NCAC 15A .2303
<u>Organized Affairs</u>	14B NCAC 15A .2304
<u>Home Product Production Education Meeting</u>	14B NCAC 15A .2305
<u>Possession, Consumption, Transportation, and Disposition ...</u>	14B NCAC 15A .2306
<u>Allowable Fees</u>	14B NCAC 15A .2307

#### **ENVIRONMENTAL MANAGEMENT COMMISSION**

<u>French Broad River Basin</u>	15A NCAC 02B .0304
<u>Additional Requirements for Dams that Impound Coal Combustion ...</u>	15A NCAC 02K .0224

#### **PUBLIC HEALTH, COMMISSION FOR**

<u>Source Water Protection Planning</u>	15A NCAC 18C .1305
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#### **DENTAL EXAMINERS, BOARD OF**

<u>Record Content</u>	21 NCAC 16T .0101
<u>Informed Consent</u>	21 NCAC 16T .0103

#### **NURSING, BOARD OF**

<u>Selection and Qualifications of Nurse Members</u>	21 NCAC 36 .0109
<u>Determination of Vacancy</u>	21 NCAC 36 .0112
<u>Determination of Qualifications</u>	21 NCAC 36 .0113
<u>Definitions</u>	21 NCAC 36 .0120
<u>Regular Renewal</u>	21 NCAC 36 .0201
<u>Inactive and Retired Status</u>	21 NCAC 36 .0202
<u>Reinstatement of Lapsed License</u>	21 NCAC 36 .0203
<u>Verification to Another State</u>	21 NCAC 36 .0207
<u>Change of Name</u>	21 NCAC 36 .0208
<u>Licensure by Examination</u>	21 NCAC 36 .0211
<u>Reexamination</u>	21 NCAC 36 .0213
<u>Investigations; Disciplinary Hearings</u>	21 NCAC 36 .0217
<u>Licensure Without Examination (By Endorsement)</u>	21 NCAC 36 .0218
<u>Temporary License</u>	21 NCAC 36 .0219
<u>Refresher Course</u>	21 NCAC 36 .0220
<u>License Required</u>	21 NCAC 36 .0221
<u>Continuing Education Programs</u>	21 NCAC 36 .0223
<u>Components of Nursing Practice for the Registered Nurse</u>	21 NCAC 36 .0224
<u>Components of Nursing Practice for the Licensed Practical Nurse</u>	21 NCAC 36 .0225
<u>Nurse Anesthesia Practice</u>	21 NCAC 36 .0226



<u>Clinical Nurse Specialist Practice</u>	21 NCAC 36	.0228
<u>Continuing Competence</u>	21 NCAC 36	.0232
<u>Out of State Students</u>	21 NCAC 36	.0233
<u>Establishment of a Nursing Program - Initial Approval</u>	21 NCAC 36	.0302
<u>Existing Nursing Program</u>	21 NCAC 36	.0303
<u>Process for Program Closure</u>	21 NCAC 36	.0309
<u>Administration</u>	21 NCAC 36	.0317
<u>Faculty</u>	21 NCAC 36	.0318
<u>Students</u>	21 NCAC 36	.0320
<u>Curriculum</u>	21 NCAC 36	.0321
<u>Facilities</u>	21 NCAC 36	.0322
<u>Records and Reports</u>	21 NCAC 36	.0323
<u>Roles of Unlicensed Personnel</u>	21 NCAC 36	.0401
<u>Coordination with Division of Health Service Regulation (...)</u>	21 NCAC 36	.0402
<u>Qualifications</u>	21 NCAC 36	.0403
<u>Listing and Renewal</u>	21 NCAC 36	.0404
<u>Approval of Nurse Aide Education Programs</u>	21 NCAC 36	.0405
<u>Medication Aide Training Requirements</u>	21 NCAC 36	.0406
<u>Name of Professional Corporation</u>	21 NCAC 36	.0502
<u>Prerequisites for Incorporation</u>	21 NCAC 36	.0503
<u>Certificate of Registration</u>	21 NCAC 36	.0504
<u>General and Administrative Provisions</u>	21 NCAC 36	.0505
<u>Forms</u>	21 NCAC 36	.0506
<u>Fees</u>	21 NCAC 36	.0507
<u>Name of Limited Liability Company</u>	21 NCAC 36	.0601
<u>Prerequisites for Organization</u>	21 NCAC 36	.0602
<u>Certificate of Registration</u>	21 NCAC 36	.0603
<u>General and Administrative Provisions</u>	21 NCAC 36	.0604
<u>Fees</u>	21 NCAC 36	.0605
<u>Definitions</u>	21 NCAC 36	.0801
<u>Scope of Practice</u>	21 NCAC 36	.0802
<u>Nurse Practitioner Registration</u>	21 NCAC 36	.0803
<u>Process for Approval to Practice</u>	21 NCAC 36	.0804
<u>Education and Certification Requirements for Registration...</u>	21 NCAC 36	.0805
<u>Annual Renewal</u>	21 NCAC 36	.0806
<u>Continuing Education (CE)</u>	21 NCAC 36	.0807
<u>Inactive Status</u>	21 NCAC 36	.0808
<u>Prescribing Authority</u>	21 NCAC 36	.0809
<u>Quality Assurance Standards for a Collaborative Practice ...</u>	21 NCAC 36	.0810
<u>Method of Identification</u>	21 NCAC 36	.0811
<u>Disciplinary Action</u>	21 NCAC 36	.0812
<u>Fees</u>	21 NCAC 36	.0813
<u>Practicing During a Disaster</u>	21 NCAC 36	.0814
<u>Reporting Criteria</u>	21 NCAC 36	.0815

#### **HOUSING FINANCE AGENCY**

<u>Fees</u>	24 NCAC 01N	.0204
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**RRC Determination  
Periodic Rule Review  
December 13, 2018  
Necessary with substantive public interest**

**Environmental Quality,  
Department of**

01 NCAC 41C .0101	10A NCAC 13G .0502
01 NCAC 41C .0201	10A NCAC 13G .0503
01 NCAC 41C .0202	10A NCAC 13G .0504
01 NCAC 41C .0203	10A NCAC 13G .0507
01 NCAC 41C .0204	10A NCAC 13G .0508
01 NCAC 41C .0205	10A NCAC 13G .0509
01 NCAC 41C .0206	10A NCAC 13G .0601
01 NCAC 41C .0207	10A NCAC 13G .0702
01 NCAC 41C .0208	10A NCAC 13G .0703
01 NCAC 41C .0209	10A NCAC 13G .0704
01 NCAC 41C .0210	10A NCAC 13G .0705
01 NCAC 41C .0211	10A NCAC 13G .0801
01 NCAC 41C .0301	10A NCAC 13G .0802
01 NCAC 41C .0302	10A NCAC 13G .0903
01 NCAC 41C .0303	10A NCAC 13G .0904
01 NCAC 41D .0101	10A NCAC 13G .0905
01 NCAC 41D .0102	10A NCAC 13G .1005
01 NCAC 41D .0201	10A NCAC 13G .1006
01 NCAC 41D .0202	10A NCAC 13G .1102
01 NCAC 41D .0301	10A NCAC 13G .1103
01 NCAC 41D .0302	10A NCAC 13G .1106
01 NCAC 41D .0401	10A NCAC 13G .1207
	10A NCAC 13G .1208
	10A NCAC 13G .1214
	10A NCAC 13G .1301
	10A NCAC 13G .1601
	10A NCAC 13G .1602
	10A NCAC 13G .1603
	10A NCAC 13G .1604
	10A NCAC 13G .1605

**Medical Care Commission**

10A NCAC 13G .0202	
10A NCAC 13G .0204	
10A NCAC 13G .0206	
10A NCAC 13G .0207	
10A NCAC 13G .0208	
10A NCAC 13G .0209	
10A NCAC 13G .0212	
10A NCAC 13G .0213	
10A NCAC 13G .0214	
10A NCAC 13G .0301	
10A NCAC 13G .0302	
10A NCAC 13G .0306	
10A NCAC 13G .0307	
10A NCAC 13G .0309	
10A NCAC 13G .0312	
10A NCAC 13G .0315	
10A NCAC 13G .0317	
10A NCAC 13G .0318	
10A NCAC 13G .0402	
10A NCAC 13G .0403	
10A NCAC 13G .0404	
10A NCAC 13G .0405	
10A NCAC 13G .0406	
10A NCAC 13G .0501	

**Public Health, Commission for**

10A NCAC 41C .0304
10A NCAC 41C .0601
10A NCAC 41C .0602
10A NCAC 41C .0608
10A NCAC 41C .0701
10A NCAC 41C .0703

**Environmental Management  
Commission**

15A NCAC 02I .0101
15A NCAC 02I .0102
15A NCAC 02I .0103
15A NCAC 02I .0106
15A NCAC 02I .0203
15A NCAC 02I .0302
15A NCAC 02I .0501
15A NCAC 02I .0502
15A NCAC 02I .0503

15A NCAC 02I .0504
15A NCAC 02I .0601
15A NCAC 02I .0602
15A NCAC 02I .0603
15A NCAC 02J .0102
15A NCAC 02J .0103
15A NCAC 02J .0104
15A NCAC 02J .0106
15A NCAC 02J .0107
15A NCAC 02J .0108
15A NCAC 02J .0109
15A NCAC 02J .0110
15A NCAC 02J .0111

**Wildlife Resources Commission**

15A NCAC 10A .0401
15A NCAC 10A .0402
15A NCAC 10A .0501
15A NCAC 10A .0502
15A NCAC 10A .0503
15A NCAC 10A .1001
15A NCAC 10A .1101
15A NCAC 10A .1201
15A NCAC 10A .1301
15A NCAC 10A .1302
15A NCAC 10A .1303
15A NCAC 10D .0102
15A NCAC 10D .0103
15A NCAC 10D .0104
15A NCAC 10D .0105
15A NCAC 10E .0101
15A NCAC 10E .0102
15A NCAC 10E .0103
15A NCAC 10E .0104
15A NCAC 10G .0401
15A NCAC 10G .0402
15A NCAC 10G .0403
15A NCAC 10G .0405
15A NCAC 10G .0501
15A NCAC 10I .0102
15A NCAC 10I .0103
15A NCAC 10I .0104
15A NCAC 10I .0105
15A NCAC 10J .0101
15A NCAC 10J .0102
15A NCAC 10J .0103
15A NCAC 10J .0104
15A NCAC 10K .0101
15A NCAC 10K .0102
15A NCAC 10K .0103

**RRC Determination  
Periodic Rule Review  
December 13, 2018  
Necessary without substantive public interest**

**Medical Care Commission**

10A NCAC 13G .0201  
10A NCAC 13G .0211  
10A NCAC 13G .0303  
10A NCAC 13G .0304  
10A NCAC 13G .0305  
10A NCAC 13G .0308  
10A NCAC 13G .0310  
10A NCAC 13G .0311  
10A NCAC 13G .0313  
10A NCAC 13G .0314  
10A NCAC 13G .0316  
10A NCAC 13G .0505  
10A NCAC 13G .0506  
10A NCAC 13G .0512  
10A NCAC 13G .0701  
10A NCAC 13G .0901  
10A NCAC 13G .0902  
10A NCAC 13G .0906  
10A NCAC 13G .0907  
10A NCAC 13G .0909  
10A NCAC 13G .1001  
10A NCAC 13G .1002  
10A NCAC 13G .1003  
10A NCAC 13G .1004  
10A NCAC 13G .1007  
10A NCAC 13G .1008  
10A NCAC 13G .1009  
10A NCAC 13G .1010  
10A NCAC 13G .1101  
10A NCAC 13G .1104  
10A NCAC 13G .1105  
10A NCAC 13G .1201  
10A NCAC 13G .1202  
10A NCAC 13G .1203  
10A NCAC 13G .1206  
10A NCAC 13G .1209

10A NCAC 13G .1210  
10A NCAC 13G .1211  
10A NCAC 13G .1212  
10A NCAC 13G .1213

**Public Health, Commission for**

10A NCAC 41C .0102  
10A NCAC 41C .0302  
10A NCAC 41C .0303  
10A NCAC 41C .0305  
10A NCAC 41C .0306  
10A NCAC 41C .0401  
10A NCAC 41C .0402  
10A NCAC 41C .0603  
10A NCAC 41C .0604  
10A NCAC 41C .0605  
10A NCAC 41C .0606  
10A NCAC 41C .0607  
10A NCAC 41C .0609  
10A NCAC 41C .0610  
10A NCAC 41C .0611  
10A NCAC 41C .0702  
10A NCAC 41C .0801  
10A NCAC 41C .0802  
10A NCAC 41C .0803  
10A NCAC 41C .0804  
10A NCAC 41C .0805  
10A NCAC 41C .0806  
10A NCAC 41C .0807  
10A NCAC 41C .0808  
10A NCAC 41C .0809  
10A NCAC 41C .0901  
10A NCAC 41C .0902  
10A NCAC 41C .0903  
10A NCAC 41C .0904  
10A NCAC 41C .0905  
10A NCAC 41C .0906

10A NCAC 41C .0907

**Health and Human Services,  
Department of**

15A NCAC 01O .0102  
15A NCAC 01O .0102  
15A NCAC 01O .0103  
15A NCAC 01O .0104  
15A NCAC 01O .0105  
15A NCAC 01O .0106  
15A NCAC 01O .0107  
15A NCAC 01O .0108  
15A NCAC 01O .0109

**Environmental Management  
Commission**

15A NCAC 02G .0102  
15A NCAC 02G .0103  
15A NCAC 02G .0104  
15A NCAC 02G .0105  
15A NCAC 02G .0106  
15A NCAC 02G .0107  
15A NCAC 02G .0501  
15A NCAC 02G .0502  
15A NCAC 02G .0503  
15A NCAC 02G .0504  
15A NCAC 02G .0505  
15A NCAC 02G .0506  
15A NCAC 02G .0507  
15A NCAC 02G .0602  
15A NCAC 02I .0104  
15A NCAC 02I .0105  
15A NCAC 02I .0301  
15A NCAC 02I .0402  
15A NCAC 02J .0101

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**RRC Determination  
Periodic Rule Review  
December 13, 2018  
Unnecessary**

**Environmental Quality,  
Department of**

01 NCAC 41A .0101  
01 NCAC 41A .0102  
01 NCAC 41A .0103  
01 NCAC 41E .0101

**Medical Care Commission**

10A NCAC 13G .0203

10A NCAC 13G .0215  
10A NCAC 13G .0407  
10A NCAC 13G .0602  
10A NCAC 13G .0908

**Public Health, Commission for**

10A NCAC 41C .0204  
10A NCAC 41C .0206

**Environmental Management  
Commission**

15A NCAC 02G .0301  
15A NCAC 02G .0302  
15A NCAC 02G .0303  
15A NCAC 02G .0304  
15A NCAC 02G .0402

**AGENDA**  
**RULES REVIEW COMMISSION**  
**THURSDAY, JANUARY 17, 2019 9:00 A.M.**  
**1711 New Hope Church Rd., Raleigh, NC 27609**

- I. Ethics reminder by the chair as set out in G.S. 163A-159(e)
- II. Approval of the minutes from the last meeting
- III. Follow-up matters
  - A. Board of Elections and Ethics Enforcement - 08 NCAC 02 .0112, .0113; 03 .0101, .0102, .0103, .0104, .0105, .0106, .0201, .0202, .0301, .0302; 04 .0302, .0304, .0305, .0306, .0307; 06B .0103, .0104, .0105; 08 .0104; 09 .0106, .0107, .0108, .0109; 10B .0101, .0102, .0103, .0104, .0105, .0106, .0107 (May)
  - B. DHHS/Division of Health Benefits – 10A NCAC 22F .0301 (May)
  - C. Commission for the Blind - 10A NCAC 63C .0203, .0204, .0403, .0601 (Thomas)
  - D. Environmental Management Commission - 15A NCAC 13B .0830, .0831, .0832, .0833, .0834, .0835, .0836, .0837, .0838, .0839, .0840, .0841, .0842, .0843, .0844, .0845, and .0846 (May)
- IV. Review of Log of Filings (Permanent Rules) for rules filed November 21, 2018 through December 20, 2018
  - Pre-Reviewed Rules
    - Board of Agriculture 09B (Reeder)
    - Soil and Water Conservation Commission (Reeder)
    - Board of Barber Examiners (Reeder)
    - Board of Dental Examiners (May)
    - Substance Abuse Professional Practice Board (Reeder)
  - Non Pre-Reviewed Rules
    - Board of Agriculture 37 (Reeder)
    - Commissioner of Agriculture (Reeder)
    - Board of Agriculture 60 (Reeder)
    - Department of Insurance (Reeder)
    - Alcoholic Beverage Control Commission (Reeder)
    - Marine Fisheries Commission (Thomas)
    - Coastal Resources Commission (May)
    - Department of Transportation (May)
    - Board of Examiners of Electrical Contractors (Reeder)
- V. Review of Log of Filings (Temporary Rules) for any rule filed within 15 business days prior to the RRC Meeting
  - E. Department of Administration – 01 NCAC 06F .0101, .0102 (May)
- VI. Existing Rules Review
  - Review of Reports
    - 1. 02 NCAC 46 - Board of Agriculture (Reeder)
    - 2. 02 NCAC 48A – Board of Agriculture (Reeder)
    - 3. 02 NCAC 48B – Board of Agriculture (Reeder)
    - 4. 02 NCAC 52J - Board of Agriculture (Reeder)
    - 5. 02 NCAC 61- Board of Agriculture (Reeder)
    - 6. 11 NCAC 01- Department of Insurance (Thomas)
    - 7. 11 NCAC 04 - Department of Insurance (Thomas)
    - 8. 11 NCAC 17- Department of Insurance (Thomas)
    - 9. 15A NCAC 18A, Sections .0100, .0300 - .0900 and .3400 – Marine Fisheries Commission (Reeder)
  - Readoptions
    - 10. 10A NCAC 13K - Medical Care Commission (May)
    - 11. 14B NCAC 09 - Victims Compensation Commission (May)
- VII. Review of the 2019 State Medical Facilities Plan (Reeder)
- VIII. Commission Business
  - F. Periodic Review and Expiration of Existing Rules Readoption Schedule
    - Executive Committee to meet following Commission Business
    - Next meeting: Thursday, February 21, 2019

**Commission Review  
Log of Permanent Rule Filings  
November 21, 2018 through December 20, 2018**

**AGRICULTURE, BOARD OF**

The rules in Chapter 9 are from the Food and Drug Protection Division.

The rules in Subchapter 9B are the rules and standards adopted by reference.

<u>Adoptions by Reference</u> Amend*	02	NCAC	09B	.0116
<u>Current Good Manufacturing Practices for Retail Food Esta...</u> Adopt*	02	NCAC	09B	.0135
The rules in Chapter 37 concern agronomic services.				
<u>Nematode Advisory Service</u> Amend*	02	NCAC	37	.0203

**AGRICULTURE, COMMISSIONER OF**

The rules in Chapter 58 are for the agricultural development and farmland preservation trust fund.

<u>Evaluation of Applications</u> Readopt with Changes*	02	NCAC	58	.0105
<u>Grant Agreement</u> Readopt with Changes*	02	NCAC	58	.0106
<u>Reporting</u> Readopt with Changes*	02	NCAC	58	.0107
<u>Records</u> Readopt with Changes*	02	NCAC	58	.0108

**SOIL AND WATER CONSERVATION COMMISSION**

The rules in Subchapter 59D concern the agriculture cost share program for nonpoint source pollution control.

<u>Purpose</u> Readopt with Changes*	02	NCAC	59D	.0101
<u>Definitions For Subchapter 59D</u> Readopt with Changes*	02	NCAC	59D	.0102
<u>Agriculture Cost Share Program Financial Assistance Alloc...</u> Readopt with Changes*	02	NCAC	59D	.0103
<u>Community Conservation Assistance Program Allocation Guid...</u> Readopt with Changes*	02	NCAC	59D	.0104
<u>Agricultural Water Resources Assistance Program Financial...</u> Readopt with Changes*	02	NCAC	59D	.0105
<u>Best Management Practices Eligible for Cost Share Payments</u> Readopt with Changes*	02	NCAC	59D	.0106
<u>Cost Share and Incentive Payments</u> Readopt with Changes*	02	NCAC	59D	.0107
<u>Technical Assistance Funds</u> Readopt with Changes*	02	NCAC	59D	.0108

<u>Cost Share Agreement</u> Adopt*	02	NCAC	59D	.0109
<u>District Program Operation</u> Adopt*	02	NCAC	59D	.0110
The rules in Subchapter 59H concern community conservation assistance program for nonpoint source pollution control				
<u>Purpose</u> Readopt/Repeal*	02	NCAC	59H	.0101
<u>Definitions</u> Readopt/Repeal*	02	NCAC	59H	.0102
<u>Allocation Guidelines and Procedures</u> Readopt/Repeal*	02	NCAC	59H	.0103
<u>Best Management Practices Eligible for Cost Share Payments</u> Readopt/Repeal*	02	NCAC	59H	.0104
<u>Cost Share and Incentive Payments</u> Readopt/Repeal*	02	NCAC	59H	.0105
<u>Technical Assistance Funds</u> Readopt/Repeal*	02	NCAC	59H	.0106
<u>Cost Share Agreement</u> Readopt/Repeal*	02	NCAC	59H	.0107
<u>District Program Operation</u> Readopt/Repeal*	02	NCAC	59H	.0108

#### **AGRICULTURE, BOARD OF**

The rules in Chapter 60 are for the division of forest resources.

The rules in Subchapter 60B concern the administration (.0100) of division programs including forest fire control (.0200); pest control (.0300); forest management (.0400); forest tree seedlings (.0500); custom forestry services (.0600); forest development program (.0700); urban and community forestry (.0800); NC prescribed burning act (.0900); and Dupont State Forest (.1000).

<u>Administration of Program</u> Amend*	02	NCAC	60B	.0701
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#### **INSURANCE, DEPARTMENT OF**

The rules in Chapter 20 concern managed care health benefit plans including managed care definitions (.0100); contracts between network plan carriers and health care providers (.0200); provider accessibility and availability (.0300); network provider credentials (.0400); HMO quality management programs (.0500); and significant modifications to HMO operations (.0600).

<u>Scope and Definitions</u> Amend*	11	NCAC	20	.0101
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#### **ALCOHOLIC BEVERAGE CONTROL COMMISSION**

The rules in Subchapter 15A concern organization rules: policies and procedures including general provisions (.0100); structure (.0200); publications, records, copies (.0300); rule-making (.0400); emergency rules (.0500); declaratory rulings (.0600); personnel policies: commission (.0700); adjudication: contested cases (.0800); fiscal rules for local boards (.0900); local abc board: personnel policies (.1000); local abc boards: relationship with state commission (.1100); openings and discontinuance of stores (.1200); storage and distribution of spirituous liquors: commercial transportation (.1300); purchase of alcoholic beverages by local boards (.1400); pricing of spirituous liquor (.1500); warehouse storage of spirituous liquors (.1600); retail sales of alcoholic beverages (.1700); purchase transportation permits for individuals

and mixed beverages permittees (.1800); sales of liquor to mixed beverages permittees (.1900); local board training (.2000); distillery permit holders' sale of spirituous liquor distilled on premises to visitors of the distillery for consumption off the premises (.2100); special one-time permits (.2200); and homemade wine and malt beverage events (.2300).

Location and Address 14B NCAC 15A .0102  
Amend\*

## **MARINE FISHERIES COMMISSION**

The rules in Subchapter 3I are general and miscellaneous rules.

Possession or Transportation Limits Through State Waters;... 15A NCAC 03I .0120  
Readopt with Changes\*

The rules in Subchapter 3J concern the use of nets in general (.0100) and in specific areas (.0200); the use of pots, dredges, and other fishing devices (.0300); fishing gear (.0400); and pound nets (.0500).

Nets or Net Stakes 15A NCAC 03J .0102  
Readopt with Changes\*

Nets Pulled by More than One Vessel 15A NCAC 03J .0108  
Readopt with Changes\*

Chowan River and Meherrin River 15A NCAC 03J .0203  
Readopt with Changes\*

Currituck Sound and Its Tributaries 15A NCAC 03J .0204  
Readopt with Changes\*

Southport Boat Harbor 15A NCAC 03J .0206  
Readopt with Changes\*

Nuclear Plant Intake Canal 15A NCAC 03J .0207  
Readopt with Changes\*

Albemarle Sound and Chowan River Herring Management... 15A NCAC 03J .0209  
Readopt without Changes\*

Dredges and Mechanical Methods Prohibited 15A NCAC 03J .0303  
Readopt with Changes\*

Electrical Fishing Device in Cape Fear River 15A NCAC 03J .0304  
Readopt with Changes\*

Hook and Line 15A NCAC 03J .0306  
Readopt with Changes\*

The rules in subchapter 3K concern oyster, clams, scallops and mussels including shellfish, general (.0100); crabs (.0200); hard clams (mercenaria) (.0300); rangia clams (.0400); and scallops (.0500).

Size and Harvest Limits 15A NCAC 03K .0402  
Readopt with Changes\*

Disposition of Meats 15A NCAC 03K .0403  
Readopt with Changes\*

Dredges and Mechanical Methods Prohibited and Open Season 15A NCAC 03K .0404  
Readopt with Changes\*

Oysters, Hard Clams, or Mussels Prohibited 15A NCAC 03K .0405  
Readopt with Changes\*

Bay Scallop Harvest Management 15A NCAC 03K .0501  
Readopt with Changes\*

Taking Bay Scallops at Night and on Weekends 15A NCAC 03K .0502  
Readopt with Changes\*

Bay Scallop Dredge Prohibited 15A NCAC 03K .0503  
Readopt without Changes\*

<u>Calico Scallop Harvest</u> Readopt with Changes*	15A	NCAC	03K	.0504
<u>Marketing Scallops Taken from Shellfish Leases or Franchises</u> Readopt with Changes*	15A	NCAC	03K	.0507
<u>Scallop Aquaculture Harvest Exemptions</u> Readopt with Changes*	15A	NCAC	03K	.0508

The rules in Chapter 3 are from the Marine Fisheries Commission. The rules in Subchapter 3L concern shrimp (.0100); crabs (.0200); and lobsters (.0300).

<u>Stone Crabs</u> Readopt with Changes*	15A	NCAC	03L	.0208
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The rules in Subchapter 3M cover harvesting of finfish including general rules (.0100); striped bass (.0200); mackerel (.0300); menhaden and Atlantic herring (.0400); and other finfish (.0500).

<u>Mutilated Finfish</u> Readopt with Changes*	15A	NCAC	03M	.0101
<u>Unmarketable Finfish</u> Readopt with Changes*	15A	NCAC	03M	.0102
<u>Minimum Size Limits</u> Readopt with Changes*	15A	NCAC	03M	.0103
<u>Red Drum</u> Readopt with Changes*	15A	NCAC	03M	.0501
<u>Mullet</u> Readopt with Changes*	15A	NCAC	03M	.0502
<u>Snapper Grouper Complex</u> Readopt with Changes*	15A	NCAC	03M	.0506
<u>Billfish</u> Readopt with Changes*	15A	NCAC	03M	.0507
<u>American Eel</u> Readopt with Changes*	15A	NCAC	03M	.0510
<u>River Herring</u> Readopt with Changes*	15A	NCAC	03M	.0513
<u>Dolphin</u> Readopt with Changes*	15A	NCAC	03M	.0515
<u>Wahoo</u> Readopt with Changes*	15A	NCAC	03M	.0517
<u>Kingfishes (Sea Mullet)</u> Readopt with Changes*	15A	NCAC	03M	.0518
<u>Tuna</u> Readopt with Changes*	15A	NCAC	03M	.0520
<u>Sheepshead</u> Readopt without Changes*	15A	NCAC	03M	.0521

The rules in Subchapter 3O cover various licenses (.0100); leases and franchises (.0200); license appeal procedures (.0300); Standard Commercial Fishing License Eligibility Board (.0400); and licenses, leases and franchises (.0500).

<u>Display of Licenses and Registrations</u> Readopt with Changes*	15A	NCAC	03O	.0106
<u>For-Hire License Requirements</u> Readopt with Changes*	15A	NCAC	03O	.0112
<u>Procedures and Requirements to Obtain Permits</u> Readopt with Changes*	15A	NCAC	03O	.0501
<u>Permit Conditions; Specific</u>	15A	NCAC	03O	.0503



**Readopt with Changes\***

The rules in Subchapter 3R specify boundaries for various areas (.0100); and fishery management areas (.0200).

Attended Gill Net Areas  
Readopt with Changes\*

15A NCAC 03R .0112

**COASTAL RESOURCES COMMISSION**

The rules in Chapter 7 are coastal management rules.

The rules in Subchapter 7B are land use planning guidelines including introduction (.0600); land use planning (.0700); CAMA land use plan review and CRC certification (.0800); and CAMA land use plan amendments (.0900).

Public Hearing and Local Adoption Requirements  
Amend\*

15A NCAC 07B .0802

Certification and Use of the Plan  
Amend\*

15A NCAC 07B .0803

The rules in Subchapter 7H are the state guidelines for areas of environmental concern (AECs) including introduction and general comments (.0100); the estuarine system (.0200); ocean hazard areas (.0300); public water supplies (.0400); natural and cultural resource areas (.0500); development standards (.0600); general permits for construction or maintenance of bulkheads and the placement of riprap for shoreline protection in estuarine and public trust waters (.1100); piers, docks and boat houses in estuarine and public trust waters (.1200); general permit to construct boat ramps along estuarine and public trust shorelines and into estuarine and public trust waters (.1300); groins in estuarine and public trust waters (.1400); excavation within or connecting to existing canals, channels, basins, or ditches in estuarine waters, public trust waters, and estuarine shoreline AECs (.1500); aerial and subaqueous utility lines with attendant structures in coastal wetlands, estuarine waters, public trust waters and estuarine shorelines (.1600); emergency work requiring a CAMA or a dredge and fill permit (.1700); beach bulldozing landward of the mean high-water mark in the ocean hazard AEC (.1800); temporary structures within the estuarine and ocean hazard AECs (.1900); authorizing minor modifications and repair to existing pier/mooring facilities in estuarine and public trust waters and ocean hazard areas (.2000); construction of sheetpile sill for shoreline protection in estuarine and public trust waters (.2100); construction of freestanding moorings in established waters and public trust areas (.2200); replacement of existing bridges and culverts in estuarine waters, estuarine shorelines, public trust areas and coastal wetlands (.2300); placement of riprap for wetland protection in estuarine and public trust waters (.2400); replacement of structures; the reconstruction of primary or frontal dune systems; and the maintenance excavation of existing canals, basins, channels, or ditches, damaged, destroyed, or filled in by hurricanes or tropical storms (.2500); construction of wetland, stream and buffer mitigation sites by the North Carolina Ecosystem Enhancement Program or the North Carolina Wetlands Restoration Program (.2600); and the construction of riprap sills for wetland enhancement in estuarine and public trust waters (.2700).

Coastal Shorelines  
Amend\*

15A NCAC 07H .0209

Specific Use Standards for Ocean Hazard Areas  
Amend\*

15A NCAC 07H .0308

General Conditions  
Amend\*

15A NCAC 07H .1704

Specific Conditions  
Amend\*

15A NCAC 07H .1705

The rules in Subchapter 7K set out activities in areas of environmental concern (AECs) which do not require a Coastal Area Management Act (CAMA) permit. These include activities that are not considered development (.0100); exempt minor maintenance and improvement (.0200); and exempt federal agency activities (.0400).

Maintenance and Repair  
Amend\*

15A NCAC 07K .0103

Single Family Residences Exempted  
Amend\*

15A NCAC 07K .0208

**TRANSPORTATION, DEPARTMENT OF**

The rules in Chapter 2 are from the Division of Highways.

The rules in Subchapter 2B concern highway planning including right of way (.0100); traffic engineering (.0200); chief engineer-programs (.0300); relocation assistance procedures (.0400); utility encroachments (.0500); and driveway entrances (.0600).

<u>The Sale of Surplus Lands</u> Readopt/Repeal*	19A	NCAC	02B	.0143
<u>Copies of Forms</u> Readopt/Repeal*	19A	NCAC	02B	.0145
<u>Definitions</u> Readopt/Repeal*	19A	NCAC	02B	.0202
<u>Uniform Traffic Control Devices</u> Readopt/Repeal*	19A	NCAC	02B	.0208
<u>Channelization for Entrances and Exits to Property</u> Readopt/Repeal*	19A	NCAC	02B	.0240
<u>Personal Property not to be Acquired</u> Readopt/Repeal*	19A	NCAC	02B	.0316
<u>Relocation Assistance</u> Readopt without Changes*	19A	NCAC	02B	.0432
<u>Applicability</u> Readopt without Changes*	19A	NCAC	02B	.0433
<u>Execution of Utility Agreement</u> Readopt without Changes*	19A	NCAC	02B	.0507

The rules in Subchapter 2D concern highway operations including standards for design and construction (.0100); landscape (.0200); field operations-maintenance and equipment (.0400); ferry operations (.0500); oversize-overweight permits (.0600); highway design branch (.0700); prequalification advertising and bidding regulations (.0800); regulations for informal construction and repair contracts (.0900); adopt-a-highway program (.1000); and disadvantaged business enterprise, minority business enterprise and women business enterprise programs for highway and bridge construction contracts (.1100).

<u>Minimum Size of Surface Drainage Pipeline</u> Readopt without Changes*	19A	NCAC	02D	.0102
<u>Guidelines - Curb Cuts and Ramps</u> Readopt without Changes*	19A	NCAC	02D	.0104
<u>Temporary Bridge Weight Limits and Closings</u> Readopt without Changes*	19A	NCAC	02D	.0408
<u>General Regulations for Drawbridges</u> Readopt/Repeal*	19A	NCAC	02D	.0415

The rules in Subchapter 2E concern miscellaneous operations including tort claims (.0100); outdoor advertising (.0200); junkyard control (.0300); general ordinances (.0400); selective vegetation removal policy (.0600); professional or specialized services (.0700); solicitation of contributions for religious purposes at rest areas (.0800); distribution of newspapers from dispensers at rest areas and welcome centers (.0900); scenic byways (.1000); tourist-oriented directional sign program (.1100); private property owners (.1200).

<u>Aircraft Landing and Taking Off on Highways</u> Readopt without Changes*	19A	NCAC	02E	.0412
<u>Parades on Highway System Roads</u> Readopt without Changes*	19A	NCAC	02E	.0413
<u>Parking Vehicle for Sale or Distribution of Goods</u> Readopt without Changes*	19A	NCAC	02E	.0414

<u>Advertising Signs within Right of Way</u> Readopt without Changes*	19A	NCAC	02E	.0415
<u>Private Drives or Roads Intersecting Highways</u> Readopt without Changes*	19A	NCAC	02E	.0416
<u>Commercial Entrances Intersecting with Right of Way</u> Readopt without Changes*	19A	NCAC	02E	.0417
<u>Fencing within Right-of-Way</u> Readopt without Changes*	19A	NCAC	02E	.0418
<u>Cultivating Crops and Maintaining Pastures within Right-o...</u> Readopt without Changes*	19A	NCAC	02E	.0419
<u>Construction within Right-of-Way</u> Readopt without Changes*	19A	NCAC	02E	.0420
<u>Utility Wires or Cables Over Highways</u> Readopt without Changes*	19A	NCAC	02E	.0421
<u>Use of Runaway Truck Ramps</u> Readopt without Changes*	19A	NCAC	02E	.0422
<u>Application for Designation</u> Readopt without Changes*	19A	NCAC	02E	.1006

### **BARBER EXAMINERS, BOARD OF**

The rules in Subchapter 6N establish fees and provide for the use of various forms.

<u>Fees, Access to Forms, and Renewals</u> Amend*	21	NCAC	06N	.0101
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### **DENTAL EXAMINERS, BOARD OF**

The rules in Subchapter 16P concern the advertisement of dental services.

<u>Advertising as a Specialist</u> Readopt with Changes*	21	NCAC	16P	.0105
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The rules in Subchapter 16Q concern general anesthesia and sedation including definitions (.0100); general anesthesia (.0200); parenteral conscious sedation (.0300); enteral conscious sedation (.0400); renewal of permits (.0500); reporting and penalties (.0600); and penalty for non-compliance (.0700).

<u>General Anesthesia Equipment and Clinical Requirements</u> Amend*	21	NCAC	16Q	.0202
<u>Procedure for General Anesthesia Evaluation or Inspection...</u> Amend*	21	NCAC	16Q	.0204
<u>Credentials and Permits for Moderate Parenteral and Enter...</u> Amend*	21	NCAC	16Q	.0301
<u>Moderate Parenteral and Enteral Conscious Sedation Clinic...</u> Amend*	21	NCAC	16Q	.0302
<u>Procedure for Moderate Conscious Sedation Evaluation or I...</u> Amend*	21	NCAC	16Q	.0306
<u>Minimal Conscious Sedation Credentials, Evaluation and Pe...</u> Amend*	21	NCAC	16Q	.0401
<u>Minimal Conscious Sedation Permit Requirements, Clinical ...</u> Readopt with Changes*	21	NCAC	16Q	.0402
<u>Credentials and Permits for Moderate Pediatric Conscious ...</u> Amend*	21	NCAC	16Q	.0404
<u>Moderate Pediatric Conscious Sedation Clinical Requiremen...</u>	21	NCAC	16Q	.0405

Amend*				
<u>Procedure for Moderate Pediatric Conscious Sedation Evalu...</u>	21	NCAC	16Q	.0408
Amend*				
<u>Annual Renewal Required</u>	21	NCAC	16Q	.0501
Repeal*				

## **ELECTRICAL CONTRACTORS, BOARD OF EXAMINERS OF**

The rules in Chapter 18B are from the Board of Electrical Contractors including general provisions (.0100); examinations and qualifications (.0200); terms and definitions applicable to licensing (.0300); licensing requirements (.0400); reciprocal licensing agreements with other states (.0700); special restricted licenses (.0800); violations and contested case hearings (.0900); forms, certificates, and publications of the board (.1000); and continuing education courses and requirements (.1100).

<u>Requirements for All Examination Applicants</u>	21	NCAC	18B	.0201
Amend*				

## **SUBSTANCE ABUSE PROFESSIONAL PRACTICE BOARD**

The rules in Chapter 68 include general provisions (.0100); certification (.0200); clinical addictions specialist (.0300); education (.0400); ethical principles of conduct (.0500); grounds for discipline and disciplinary procedures (.0600); and appeals process (.0700).

<u>Designation as Substance Abuse Counselor Intern</u>	21	NCAC	68	.0203
Readopt with Changes**				
<u>Certified Substance Abuse Counselor Certification</u>	21	NCAC	68	.0205
Readopt with Changes**				
<u>Process for Prevention Consultant Certification</u>	21	NCAC	68	.0206
Readopt with Changes*				
<u>Certification or Licensure Period</u>	21	NCAC	68	.0207
Readopt with Changes*				
<u>Renewal Requirements for Counselor, Criminal Justice Addi...</u>	21	NCAC	68	.0208
Readopt with Changes**				
<u>Process for Clinical Supervisor Certification</u>	21	NCAC	68	.0211
Readopt with Changes**				
<u>Process for Residential Facility Director Certification</u>	21	NCAC	68	.0212
Readopt with Changes**				
<u>Licensure Requirements for Initial Applicants for Licensu...</u>	21	NCAC	68	.0305
Readopt with Changes**				
<u>Renewal of Individual Licensure as Clinical Addictions Sp...</u>	21	NCAC	68	.0306
Readopt with Changes*				

**Commission Review  
Log of Temporary Rule Filings  
December 27, 2018 through January 17, 2019**

## **ADMINISTRATION, DEPARTMENT OF**

The rules in Subchapter 6F concern telecommunications facilities for broadband providers.

<u>Procedures</u>	01	NCAC	06F	.0101
Adopt*				
<u>Terms and Conditions</u>	01	NCAC	06F	.0102
Adopt*				

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**CONTESTED CASE DECISIONS**

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*This Section contains a listing of recently issued Administrative Law Judge decisions for contested cases that are non-confidential. Published decisions are available for viewing on the OAH website at <http://www.ncoah.com/hearings/decisions/>. If you are having problems accessing the text of the decisions online or for other questions regarding contested cases or case decisions, please contact the Clerk's office by email: [oah.clerks@oah.nc.gov](mailto:oah.clerks@oah.nc.gov) or phone 919-431-3000.*

**OFFICE OF ADMINISTRATIVE HEARINGS****Chief Administrative Law Judge****JULIAN MANN, III****Senior Administrative Law Judge****FRED G. MORRISON JR.****ADMINISTRATIVE LAW JUDGES**

Melissa Owens Lassiter  
Don Overby  
J. Randall May  
David Sutton  
Tenisha Jacobs

A. B. Elkins II  
Selina Malherbe  
J. Randolph Ward  
Stacey Bawtinheimer

Year	Code	Number	Date Decision Filed	Petitioner		Respondent	ALJ
				<b><u>PUBLISHED</u></b>			
17	ABC	06296	10/24/2018; 10/25/2018	NC Alcoholic Beverage Control Commission	v.	Bees Town Inc T/A Bees Town	Ward
17	DHR	04630	8/6/2018; 10/9/2018	Managed Health Resources, Inc(MHR), controlled by The Charlotte Mecklenburg Hospital Authority (CMHA) d/b/a Atrium Health	v.	Cardinal Innovations Healthcare Solutions	Malherbe
18	DHR	01530	10/22/2018	Juaneza Kay Gooch	v.	North Carolina Department of Health and Human Services DSS Program Integrity Food Stamps	Ward
18	DHR	02146	10/26/2018	Emma P Williams	v.	NC Department of Health and Human Services, Division of Health Service Regulation	Sutton
18	DHR	02983	10/10/2018	Carla Denise Cook	v.	Department of Health and Human Services	Malherbe
18	DOJ	00592	10/10/2018	Jeffrey Laine Guyton	v.	NC Sheriffs Education and Training Standards Commission	Overby
18	DOJ	02968	10/30/2018	Robert O Laney Jr	v.	NC Sheriffs Education and Training Standards Commission	May
18	DOJ	02974	10/30/2018	Tyler Stockton	v.	NC Sheriffs Education and Training Standards Commission	May
18	DOL	01666	10/8/2018	Signature Payroll Services LLC D/B/A	v.	NC Department of Labor	Ward

**CONTESTED CASE DECISIONS**

				Signature Payroll Services			
				<b><u>UNPUBLISHED</u></b>			
18	ABC	03296	10/24/2018	NC Alcoholic Beverage Control Commission	v.	Diversified Corp T/A Mansion	Elkins
18	BOG	05185	10/23/2018	Donald Bruce Nothdurft	v.	North Carolina Board for Licensing of Geologists	Malherbe
18	CPS	04672	10/19/2018	Patricia Nevins	v.	NC Crime Victims Compensation Commission	Mann
18	CRA	04538	10/8/2018	Clinton Driggers Jr	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement Section	Elkins
18	CSE	03326	10/3/2018	Derrick Nicholson	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	May
18	CSE	03671	10/23/2018	William O Martin	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement Section	Malherbe
18	DHR	03320	10/23/2018	Kezmit Howard	v.	The Division of Child Development and Early Education- Department of Health and Human Services	Malherbe
18	DHR	03448	10/24/2018	Joyce Sykes Fitch	v.	NC Department of Health and Human Services Division of Public Health Environmental Health Section	Overby
18	DHR	03872	10/11/2018	Jennifer R Lewis Executive Director Youth Focus Inc	v.	NC Department of Health and Human Services, Division of Health Service Regulation, Mental Health Licensure and Certification	May
18	DHR	04155	10/5/2018	Luis Reyes	v.	NC Office of EMS/Dept of Health & Human Services	Mann
18	DHR	04248	10/16/2018	Vanessa Diane Bradley	v.	DHHS Healthcare Registry	Jacobs
18	DHR	04614	10/11/2018	Sharpe and Williams Kesha Spaulding	v.	NC Department of Health and Human Services, Division of Health Service Regulation	May
18	DHR	04728	10/19/2018	Christopher D Quick	v.	Medicaid	Mann
18	DHR	04880	10/4/2018	Jesusito Rondon Guzman Tienda Mexicana La Posadita 2	v.	WIC Agency	Elkins
18	DHR	05125	10/24/2018	Paulette Powell	v.	Department of Health and Human Services, Division of Health Service Regulation	Jacobs
18	DHR	05140	10/3/2018	Dianne Clark	v.	Dept of Health and Human Services, Division of Health Service	Overby
18	DHR	05220	10/25/2018	Daniel J Hall	v.	Department of Health and Human Services, Division of Health Service Regulation	Jacobs

**CONTESTED CASE DECISIONS**

18	DHR	05228	10/24/2018	Paradigm Inc Jason T Barnett Jeannette Barnett	v.	NCDHHS/ Office of Admin Hearing	Jacobs
18	DOJ	04889	10/10/2018	John Edward Suttles Jr.	v.	NC Criminal Justice Education and Training Standards Commission	Sutton
18	DOJ	05016	10/10/2018	Derrick Demond Lee	v.	NC Sheriffs Education and Training Standards Commission	Jacobs
18	DOJ	05261	10/19/2018	Stephen D Watson	v.	NC Sheriffs Education and Training Standards Commission	Sutton
18	DOT	02605	10/5/2018	Jannett Stickland Smith	v.	NC Department of Transportation	Mann
18	INS	04329	10/26/2018	Jennifer Weider	v.	North Carolina State Health Plan for Teachers and State Employees	Overby
18	INS	05085	10/31/2018	Robert Michael Absher	v.	State Health Plan of NC	May
18	OSP	04572	10/19/2018	Sanita Jefferies	v.	Murdoch Developmental Center	Mann
18	SOS	04165	10/5/2018	Paul Edward Nichols	v.	State of North Carolina Department of the Secretary of State	Jacobs
18	UNC	03931	10/5/2018	Lisa M Seaton	v.	UNC Hospital Patient Account Services	Mann